

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABD AL AZIZ SAYER UWAIN)
AL SHAMMERI, *et al.*)
Plaintiffs,)
v.) Civil Action No. 02-CV-0828 (CKK)
UNITED STATES OF AMERICA,)
et al.,)
Defendants.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abd Al Aziz Sayer Uwain Al Shammeri that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify members of the detainee's family, as well as their addresses and phone numbers, and certain U.S. Government

personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 15 Oct 04



James R. Cristfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0217
15 October 2004

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
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14 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #8 of 13 September 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibits R-5 and R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant. Note also that the Translator was allowed to essentially give expert testimony regarding the explanation of "Omra" to the Tribunal without being placed under oath (see page 3 of enclosure (3)). The oath administered to interpreters during the tribunal only states that they "will faithfully perform the duties of interpreter." Giving testimony is not one of the duties of an interpreter. Nonetheless, in my opinion this was a minor error that did not prejudice the detainee. I do not believe that any corrective action is necessary.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #8

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Marine Corps Reserve; President

[REDACTED] Colonel, U.S. Army; Member

[REDACTED] Lieutenant Colonel, JAGC, U.S. Army; Member
(JAG)

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

8 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #8

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #8 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

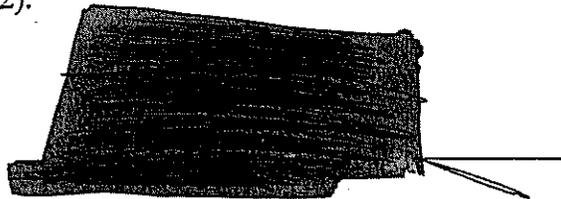
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 29 September 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).

2. (U) On 29 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant, as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Marine Corps
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #8 _____

ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

a. The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee traveled from Kuwait to Iran and then to Afghanistan soon after 11 September 2001. He was arrested by the Pakistani Army while attempting to cross into Pakistan from Afghanistan without identification documents. One of the Detainee's known aliases was on a list of captured hard drives associated with a senior al Qaida member. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, made an oral, sworn statement and also provided a written statement.

b. The Detainee, in his oral/written statement (Exhibit D-b), denied being a member of al Qaida by saying that "this accusation does not have anything to support it, but it is merely words with no evidence to prove it." The Detainee went on to say that he journeyed to Afghanistan to teach and to help the needy and that he had thought that the fighting would be far away from where he was going. However, once he arrived in Afghanistan and the Taliban fell from power, every Arab in Afghanistan was wanted dead or alive. He claimed he did not need a passport while traveling around Afghanistan and had left it at the home of his Afghani guide. Since the situation was so bad, the Detainee decided to not return to the Afghani's home to retrieve his passport, but instead starting walking toward Pakistan. He crossed into Pakistan assuming that the Pakistani police would detain him and turn him over to his home country (Kuwait) once they found out his identity. Furthermore, the Detainee claimed that he did not use an alias, that he had, and used, no other name but his own name. He could not prevent someone from putting his name on a computer. If he wanted to hurt Americans, he didn't have to travel to Afghanistan to do it, as there are Americans in Kuwait and he could have hurt them there.

c. The Tribunal recessed the proceedings in order to attempt to produce additional information that was referenced in the Classified portion of the session.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a through D-d and R-1 through R-19.
- b. Testimony of the following persons: None
- c. Sworn statement of the Detainee.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses or requested additional evidence be produced; therefore, no rulings on these matters were required.

5. Discussion of Unclassified Evidence

The Tribunal found the following unclassified evidence persuasive in making its determinations:

- a. The Recorder offered the following exhibits.

(1) Exhibit R-1 was introduced into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence.

(2) Exhibit R-2, the request from the Federal Bureau of Investigation to redact certain information from the FBI Form 302 (or FD 302), was not helpful to the Tribunal in determining whether the Detainee was properly classified as an enemy combatant. The Tribunal therefore found Exhibit R-2 to be without merit.

(3) Exhibit R-3, Answers to the Questions for the Family of Abd Alaziz Sayir Al Shamari, undated. This document gave the Tribunal background information from the Detainee's family about ISN [REDACTED]. The Detainee's family was unaware that he went to Afghanistan and knew only that he was traveling to Pakistan. They believed he traveled on 15 October 2001. The family additionally stated that he did not quit his job (as will be discussed in the Classified portion of this Tribunal Decision Report) and that his brother filed a resignation on his behalf rather so that the Detainee would not be fired. While the Tribunal could infer, for the most part, to which questions the family was responding, the

questions were not included in the packet. There were some answers, however, to questions that the Tribunal could not figure out. The Tribunal President directed the Tribunal Judge Advocate to contact the Legal Advisor to ensure that these questions be included in the case packages.

b. The Personal Representative offered Exhibit D-b, Written and Signed Statement by the Detainee with Translation. This document was authored by the Detainee. As outlined in paragraph 2(b), the Detainee details his answers in response to allegations made against him in the Unclassified Summary of Evidence (Exhibit R-1).

The Tribunal found the following unclassified evidence unpersuasive in making its determinations: The Recorder offered Exhibit R-4, a civil complaint filed on behalf of the Detainee by legal counsel in U.S. Federal Court. A cover sheet from the Detainee's legal counsel is dated 8 July 2002. This document was a copy of an "amended complaint" that has been filed for the Detainee in the United States District Court for the District of Columbia by [REDACTED], the "next friend" of the Detainee. While it illustrated that fact that the Detainee is listed as a plaintiff in a civil case currently pending with the U.S. District Court, it had no bearing on the Detainee's enemy combatant status.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

Other than the issue raised in paragraph 5a(3) above, no issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary.

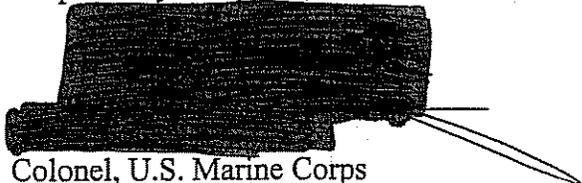
b. The Detainee understood the Tribunal proceedings. He actively participated in the hearing. He also asked questions about the Tribunal members' background in legal affairs, fairness of the proceedings, and wanted to know who was present in the room. The Tribunal President introduced the individuals present in the room and provided generic information about the composition of the Tribunal panel.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction covers the signature of the Tribunal President. The redaction is positioned above the typed name and title.

Colonel, U.S. Marine Corps
Tribunal President

Unsworn Detainee Statements

Detainee: I would like to know who is present with us in the Tribunal.

Tribunal President: As identified, the Tribunal Members, the Recorder, the Reporter, the Translator, and you know your Personal Representative. These other two gentlemen are journalists.

Detainee: Reporters [referring to the journalists]?

Tribunal President: Yes, for this open session.

Detainee: Tell them welcome.

Tribunal President: You have no objections that they attend this session?

Detainee: No. I have no objections, but the Commanders of the Tribunal, do they have a background in law or law diplomas, or are they just officers?

Tribunal President: They are military officers and one is a Judge Advocate General, which is a military lawyer.

Detainee: The others, do they know anything about the law?

Tribunal President: We have a general knowledge of the military and the Tribunal proceedings.

Detainee: I am a civilian, so how can you try me in a military court? Under what basis?

Tribunal President: This is not a legal proceeding. This is an administrative hearing to determine your enemy combatant status.

Detainee: Good.

The Detainee asked what the Detainee Election Form was and the Tribunal President read it to him. The Detainee then stated he would explain why he did not call any witnesses when he makes his statement.

When the Tribunal President stated the Tribunal Members needed a minute to look over the unclassified evidence to become familiar with it, the Detainee stated it would have been better if the Tribunal Members had been familiar with it [the unclassified evidence] beforehand; that way, if there were any comment about it, the Detainee would have been able to respond. Additionally, the Detainee was concerned that a question would arise after he had left the Tribunal and he would not have the opportunity to answer the question.

The Tribunal President stated he would have an opportunity to review the evidence while the Detainee was still in the Tribunal and would be able to address any questions to the Detainee.

The Tribunal President told the Detainee the reason the Tribunal Members had not looked at any evidence prior to the Tribunal was to keep a clear mind as to the Detainee and his enemy combatant status.

Sworn Detainee Statement

In the name of God, most Gracious, most Merciful. Thanks to Allah who, there is no God but him, and prayers and peace be upon our prophet Mohammed, the last of the prophets and messengers.

Hear now: From the beginning, the reason I didn't call any witnesses is because this matter does not require calling any witnesses. I know that the accused is innocent until proven guilty. In all of the law, witnesses are brought for the accused. I haven't heard of witnesses being called to prove that someone is innocent and has not committed a crime. First of all, prove that I'm a criminal, and after that I would need to prove that I'm innocent, and I will bring witnesses. That's why I did not present any witnesses.

Regarding my answer to the accusation that I am a member of Al Qaeda, so I say: that this accusation does not have anything to support it, but it is merely words with no evidence to prove it. As if monetary receipts were found on me to indicate that I had given financial support to Al Qaeda, or that I was arrested in a place specific to Al Qaeda, or that I was seen attending their meetings, or that it was found that I have a strong relationship with Usama Bin Laden, or during the time of my arrest or capture, I was found with a weapon. So on what grounds have I been associated with Al Qaeda when none of these things have happened?

The answer to the accusations that have been brought upon me. The first point, number 1. What is the relationship between traveling to Afghanistan and Al Qaeda? How can it be that travel to a large country with millions of people is travel for Al Qaeda, which does not even represent 1% of that number or population? For is a person who traveled to China considered a communist? And is a person who traveled to Iraq considered loyal to the Baath Party? So, how did you make the fact that I traveled to Afghanistan an accusation that I am a part of Al Qaeda?

As for the fact that I traveled from my country, Kuwait, after the events of September, this is a very natural thing. These events, the events of September, occurred in America. So the chaos and confusion was not present anywhere but America only. But as for the rest of the countries in the world, the situation was very normal. People were going about their routine lives. So, there was nothing strange about my trip.

Also I had met an Afghani man on one of my trips to the "Omra" whose name was Mohamed and he lives in Iran.

The translator clarified "Omra" is when you travel to Mecca for worship. You can do it any time of year, except for the designated time for Hajj.

This "Omra," millions of people go and do it every year. So this Afghani man proposed to me to travel to Afghanistan to teach the Koran and the Arabic language and Islamic studies. Because there are so many people in Mecca at that time, it is very normal for you to meet people and say "where are you from" and things like that. So, even though a person might have been a friend from before, it is normal to meet people during that time.

Returning to the subject. So, he proposed to me to travel to Afghanistan to teach the Quran, the Arabic language and Islamic studies. Of course, this is after he learned that I studied Islamic Studies for 4 years at the Imam Mohamed Bin Saud Islamic University. I had graduated with a "Very Good," just a few marks away from "Excellent."

I don't recall the date I met him [the Afghani man]. This man gave me his phone number and said to me "If you wish to accept my offer" and I mean traveling to Afghanistan to teach, "then call me on my phone and I will arrange everything." Then I returned to Kuwait and after a period of time when the problems happened in Afghanistan, I decided to accept the offer to teach in addition to helping some of the needy after my family had transferred some money to me. That was the idea, especially after I had seen on television the needs of the people.

That is not a peculiar thing because rescue work does not happen unless it is after a disaster or problem. In times of peace and security and prosperity, no one needs rescuing.

For your knowledge, war in Afghanistan had not stopped for many long years so there was no difference between before September or after. I had thought that the war would only be on the battlegrounds because I had seen when Iraq was in my country; I saw the fighting was only on the front lines. It would not go into the cities or villages, or that there would be an assassination attempt on certain individuals, for example, Usama Bin Laden, Mullah Omar, or any of the big figures that were wanted by America. For example, when they bombed the palaces of Moammar Khadafi in Lybia. After the event of a plane in Lockerbie [Scotland] or their kidnapping, as it had happened to the president of Panama, Noreiga, and that the matter would end at that.

I thought my trip would be via Iran, then Pakistan, and that is what I told my family, because I knew that the relationship between Iran and Afghanistan was bad because Afghanistan had killed diplomatic individuals who were Iranian, and that's when things started to deteriorate between the two countries. I thought the borders would be closed. But after calling that Afghani man Mohamed, he said to me "It is possible for us to enter

Afghanistan via Iran, for the border crossing point between them is operating," so I said "Then there is no need to travel to Pakistan, particularly since it requires another visa."

I just want to say that it is my nature to smile. I am always smiling, so it's nothing out of the ordinary. Don't think it is anything else.

The Detainee had been smiling throughout the proceedings.

And I had intended to stay for a short period then return. There are several facts that support that, including that I had sent my High school and University diplomas to the Arab Republic of Egypt so that I could continue my studies towards my Masters in Islamic Studies. I had paid my registration dues, and I was waiting for an answer to my application. This was before my travel. This was done through the Ministry of Higher Education in the country of Kuwait. It is a Government organization. My application, this ministry, was not closed until after my imprisonment.

If you want to verify this point, you can get in touch with your embassies in Kuwait and they will get a hold of the Ministry of Higher Education in Kuwait and they will give them receipts or documents that will show that I had registered with them and was waiting for my acceptance into that university.

I also presented my paperwork in order to improve my position at work from a teacher at Dar Al Quran, which is a part of the Ministry of Islamic Affairs and Charity, to a teacher at the Institute of Applications after I was sent by the government to obtain a Doctorate Degree. Those institutes award diplomas higher than High School and less than Bachelors. This did not happen because I was imprisoned.

You can also verify this. I had sent an application and I was waiting for a reply to set up an interview. After I came to this prison, I heard from my family that they [Ministry of Higher Education] had called my family and were looking for me to set up an interview.

So, how could I have traveled to meet with Al Qaeda, when I had made all those arrangements? And for your knowledge, my trip was via official channels and with government issued travel documents. There was nothing in my Kuwaiti passport to indicate that it was forbidden to travel to Afghanistan, for if there was a restriction, the mistake is on my government's part that did not tell me of this restriction. But it was written in my passport, on the first page, "This passport is valid for travel to all countries in the world unless it is otherwise mentioned" and they did not mention Afghanistan.

The Kuwaiti government does not restrict travel to any countries, even any Kuwaiti national who wants to travel to Iraq; the government does not tell them that they cannot travel to Iraq. The border point between Kuwait and Iraq is closed. If someone wanted to travel there, there is no law in Kuwait that says it is forbidden.

So, how can you say that my travel to Afghanistan was a crime, when my government did not restrict that travel?

This is the answer to the second point. After the fall of the Taliban, every Arab in Afghanistan was wanted dead or alive, whether or not he was a combatant in the first place. I heard they had started buying Arabs and selling them, so I became afraid at hearing this news so I decided to escape quickly.

It is known by you that a traveler, most of the time, does not carry his passport with him but leaves it with his valuables and luggage, especially in a country like Afghanistan. There is no one to ask anyone about identification in Afghanistan. You know that there are many highway robberies in Afghanistan, so how can I carry my passport and official documents with me?

That's why I could not return to my luggage. The events had started to evolve a very fast and dangerous evolution, so I said to the man that was with me "I want to leave quickly," so he arranged my departure for me.

As you know the war or fighting inside the country started and the government fell and people started to fight amongst themselves and the weak escaped. They would not have taken refuge at the known border stations, because the armed individuals, or assassins or mercenaries had taken them over and would kill anyone who went there. That is exactly what happened in Afghanistan. Of course, you know that people in Afghanistan kill for money. Killing had become the simplest thing.

So it became natural for me to walk and escape to Afghanistan, until I could go to the embassy there which would arrange my situation. What indicates that I am not a dangerous person, and that I have no secrets, is that I turned myself into the police without a chase or resistance or anything else. I went to them.

And then what is the relationship between my crossing the border and Al Qaeda? Is everyone who crossed the border at that time a person who is loyal to Al Qaeda? Those are words that cannot be said, for when Iraq invaded my country, Kuwait, and men and children and women were escaping to Saudi Arabia, Jordan and Iran, we did not see anyone arrest them and tell them you are followers of Saddam Hussein. Knowing that they were crossing over at the border stations secretly and without travel documents, and those countries' authorities would not arrest them but would help them and construct medical tents for them to treat them in. Under those circumstances no one asks for documents because the circumstances are not normal in that part of the world.

And then let's assume that I made a mistake in this matter, I mean in my crossing the border without identification documents. The known procedure in a situation like this in all countries in the world is to detain me until the Pakistani authorities could find out my identity and country then send me back to my country. Not to turn me over to the American authorities, as a member of Al Qaeda and the Taliban, for this is an

unbelievable thing. Knowing that they asked me for my personal information and I gave it to them at the first moment, and they said to me "We will verify this with the Kuwaiti government." So, on what basis did they turn me over to you?

This is the answer to the third point. My name is Abd Al Aziz Sayer Al Shammri, and I have no other name but this name. There is no relationship between me and any person from Al Qaeda. If a name like mine was found on a list with one of the people, then this would be a likeness in names because there are millions of Arab people that have my same name. My tribe is very large in the Gulf. My tribe is present in Kuwait, Saudi Arabia, Jordan, Syria and Iraq. The name, Abdul Aziz, and the name of the tribe is very well known and spread out. For my name, many others have it as well.

You haven't found my personal identification with that man, so you could say you placed these things with him, so this indicates a relationship between you two, other than a name similar to mine was found.

And let's assume the name found was my name. I cannot prevent any person from writing my name in anything they want because this is not under my control. For example, if Hitler wrote my name, I would not go to him, and tell him why did you write my name. As long as I don't have a relationship with him, then I am not responsible for his writing. And whomever wants to, will write whatever they want. I don't have a relationship with anyone. Also, I asked my Personal Representative, "What was the title to these names?" He said they were just names, there was no title. To this, I say, besides that list is nothing but names only nothing else and nothing is known about it. How can you say it is from Al Qaeda? And you found just names, nothing else.

That is if this list is not a fake from the interrogators, for any person can type into the computer whatever they wanted any time they wanted, then say this was found on the computer.

I have a final note. How could I be associated with Al Qaeda and I never traveled to them? Not even one time. I'm sure the Kuwaiti government gave you a list of my travel, dates and locations and not one of those travel dates or locations was to Afghanistan, or the countries that are surrounding Afghanistan. So, how can I be part of an organization when I never went and traveled and met them?

Also, you know that Al Qaeda is not a political organization, so that it would give political instructions. They are people who fight. Which means, that someone that was part of them has to go and train to learn how to fight. So, how can I be a part of them when I never went to train with them and I never went to their meetings?

Also, if I had wanted to fight against the Americans, the matter did not require me traveling to Afghanistan. The Americans are present in Kuwait. So, if I wanted to fight with them, I would have fought them in Kuwait. You saw how people are bombing Americans in Saudi Arabia. If I had any hatred on my part, I would have done that to the

Americans in Kuwait. There was no need for me to travel. If you're saying that the American is my enemy, these Americans are there in front of me. The mind does not say to leave my enemy when he is in front of me and go to another country to fight him. When that did not happen, it is proof that there is no hatred on my part towards the Americans.

This answer that I just read to you is based on the information that you presented to me. If you gave me any other information, I can answer it. I am sure that if all the interrogators in America came in and interrogated me, they cannot bring anything to me that will harm me because I am a peaceful person and I don't have anything.

I think the words I told you are sufficient, that is, if these proceedings are real and legal official proceedings, and it is not, as some say, a play or movie.

These are the words of Abd Al Aziz Sayer Al Shammeri, presented to you. You look at whatever you want to look at.

Based on the accusations and the points you have shown me, this concludes my statement. If there is something else that I do not know, if you tell me, I will clarify it.

I have one more thing to say. Some of the things I wrote down and some of the things I added today.

The Detainee is referring to his written statement that was entered as Exhibit D-b. The Detainee read from his statement and elaborated on certain points.

Questions by the Tribunal President

Q: Referencing the family affidavit, have you seen it?

A: Yes, my Personal Representative showed it to me.

Q: It identifies that you joined the Kuwaiti military in 1992. Is that true?

A: Yes.

Q: 1990 is when Iraq invaded Kuwait. Do you recall?

A: I don't remember the exact date.

Q: You recall that tragic event?

A: Of course I remember, but I forgot the date.

Q: Can you tell us how that affected you and your family?

- A: My older brother, God rest his soul, was killed by the Iraqi forces. I saw the tragedy in the streets. They were killing people in the streets. Yes, I saw this. One of the students that was with me at school, they killed him in front of his mother and brothers and sisters. So, yes, of course, it affected me very much.
- Q: I am sorry about the loss of your brother.
- A: Thank you, very much.
- Q: Is this part of the reason you joined the military in Kuwait?
- A: No, a lot of people in Kuwait join the military just as a job. It pays good wages. You know that Kuwait is a country that cannot really fight. It is a very small country; it is not capable of going to war.
- Q: Your father is a retired policeman?
- A: Yes, he's retired.
- Q: Why did you pick September of 2001 to travel to Afghanistan?
- A: It's just like I told you, because of the trouble that was over there; to help. Before the events, I had gotten the offer to go to Afghanistan. It was kind of like an excuse to travel. You know that charity organizations, they only go to places where there is trouble or need. They don't go to any other countries.
- The situation in Afghanistan was not dependent on the events of September. Wars had been going on in Afghanistan for 20 or 25 years.
- Q: You had no opportunity prior to that to travel to Afghanistan?
- A: Travel is of my own will. There is nothing really that made me travel at this moment. It was just travel.
- Q: Have you traveled to other countries with the same charitable intent?
- A: It was to close neighboring countries, but just to give some money to the poor or something. For example, in Kuwait, any person who is poor, the government gives them wages. In other countries, like Saudi Arabia and the United Arab Emirates, we know that there are very poor people there and the government does not help them. Sometimes you travel; you would have some money and just distribute it because you know in those places there are people who are needy. My studies were in the United Arab Emirates, so I know that situation there.

Also, I traveled to Mecca several times and saw the beggars there. People pay or give a lot of money in Mecca because they think that place is blessed.

There was no need for me to travel to far places, except for this one time.

Q: While you were in Afghanistan, did you ever have, in your possession, a weapon?

A: No.

Q: While you were in Afghanistan, did you observe violent acts against Afghans or other individuals?

A: The nature of the reason why I went there is very far from the things you are talking about.

The Tribunal President stated that his questions were relevant for determining the Detainee's enemy combatant status. The Detainee did not understand, so the Tribunal President read the definition of enemy combatant to the Detainee. The Detainee understood.

Okay, I didn't see any violent acts.

Questions by the Tribunal Members

Q: Do you speak English?

A: Little.

Q: That you've learned here?

A: In Kuwait they teach us English for about 8 years. It has now been 12 years. Being around the soldiers here helps us.

Q: How long have you been here, at the camp?

A: Almost 3 years.

Q: I want to stay on the line of questioning you heard a few minutes ago. The problem we have with a certain portion of your statement is that you indicated you chose not to carry your passport with you because you said Afghanistan was such a dangerous place. We understand that there was no government functioning there because you said it was after the fall of the Taliban. We presume, therefore, virtually everyone carried weapons or sought personal protection of some kind, yet you said you did not carry a weapon, even though you were concerned with the danger. In addition, even though Afghanistan had no functioning government,

Pakistan did. We wonder how it was that you thought you could gain entry into Pakistan with no passport?

A: Good. Please continue what you were saying.

Q: Can you please reconcile these concerns for us?

A: Yes. I didn't say I left my passport in my bag just after the fall of the Taliban; I did that all the time. One of the reasons that made me not carry my passport with me, in Afghanistan no one asks you about documentation or identification. In that particular time, I was away from the place that had my luggage and my bags. It was with the people that had taken me in. I forgot the name of the place I was in, but the Afghani man that was with me told me that the forces that were followers, part of the Northern Alliance had entered the closest city to us. They started killing any Arab they saw and captured them, even if he wasn't a combatant. You know they killed some of the women as well. And you know that women in Islam are not killed; they don't fight or participate in the fighting. So, when I hear something like that, I don't think of going back and getting my passport, I just think of my life.

Like I told you, I thought if I went to Pakistan, they would detain me for a while until they found out my country and then return me to my country. I didn't think they would tell me "Since you don't have identification or a passport, that means you're a follower of Usama Bin Laden." I have never heard of this before, if you don't have a passport, you are a follower of Usama Bin Laden.

Like I told you, all they had to do was find out my identity and return me to my country. Even if it's true that I made a mistake, this doesn't have anything to do with America. This is a problem between me and the government of Pakistan. I don't know what America has to do with me crossing the border with no identification. That is in addition to the things I said before. It ties to it.

Q: I'm sure that one of the major concerns surrounds your name being found on a computer hard drive, or so the U.S. Government says. We understood what you said during your statement, that perhaps the U.S. Government could have planted that document there, but there must be a more reasonable reason those names appeared on the hard drive. Is there anything else you would like to say to address that concern?

A: First, when the Pakistanis turned me over, they did not turn me over because my name was found on that list, because that list you are talking about, they only told me about it a few months ago in interrogation. They captured me 3 years ago; before you captured this person you are talking about. So, you didn't even capture me because of this list. My name was not on the international Interpol list for them to turn me over to you.

In that sense, from the beginning the Pakistani government was wrong; it was illegal for them to turn me over to you.

I will give you an example. Let's say any country in the world put my name on a list of people who are not allowed to enter that country. Are you going to come and ask me why this country put my name on their list? Or, will you go to that country and ask them why they put my name on their list? I don't have anything to do with this. This is not something I am responsible for. If Bin Laden, himself, had written my name, is this considered a crime that I committed? Your duty is, first of all, to ask Bin Laden, and second, you have to look at are the words of Bin Laden the truth? Let's say that you called him and he said I knew this person in China and his name is so and so. Are you automatically going to detain that person or will you look for that man? Are you going to see if he had any meetings with Bin Laden? Did he meet with any people that met with Bin Laden? You have to see if the words Bin Laden said are the truth. It doesn't mean that any name you find with Bin Laden you go and catch all those people. This is not my mistake or my fault that this man wrote my name.

Right now, if you wrote my name, I don't have the ability to come and take the piece of paper and rip it up. How can you fault me for the actions of others?

Those are my words and I hope they are good.

Q: As I understand your statement and the information provided by your family, you are considered to be an educated man in Kuwait?

A: Thank you.

Q: You are, in fact, a lawyer, aren't you?

A: No, in my studies I study some things, but I am not a lawyer. If I wanted to be a lawyer, my degree would enable me to work as a lawyer.

Q: You do have a degree in Islamic law, do you not?

A: That's what brought me here to this prison, this degree.

Q: That's unfortunate.

A: God willing, when I get out of here I won't study any of this Islamic law. I'll just raise sheep or cattle and live in the desert.

Q: In your statement, you claim to be quite well informed of world events and history?

A: I don't live in the desert. I live in a city that has television and radio.

Q: At the time you made your decision to travel to Afghanistan, you were well aware of the civil war there?

A: Yes.

Q: And, you knew that it had been going on for quite some time?

A: Yes.

Q: You were not concerned for your personal safety?

A: I told you, when Iraq invaded Kuwait the fighting between these forces was only occurring on the front lines. You saw, in Europe, there was a war there in the days of Hitler, Italy, the fighting was on the battlegrounds or front lines, but in the cities, the people were living their normal lives.

The markets were functioning. The places of worship, mosques and churches, were functioning. The hospitals were functioning. Men would marry women and they would start new families. Life was going on; it would not be interrupted except on the battleground or places where there was fighting.

The danger is if the fighting was in the streets. In that case, the people would be scared and all aspects of life would be interrupted. I didn't think the situation would be that way in Afghanistan. I thought the lines where the fighting was, the fighting, the government would fall and that would be it.

I also did not realize or think that the government of Afghanistan would fall in the blink of an eye. Everyone there thought the war would go on for a very long time. I was just traveling there for a very short time and then would return. When I went there, I didn't think the situation would explode like that.

Q: On September 11, 2001 were you still in Kuwait?

A: Yes.

Q: According to information your family provided, it says you went to Pakistan on October 15, 2001. Is that close to being accurate?

A: I think it is close to the date, but I don't remember exactly.

Q: Is the October time frame reasonable?

A: Approximately.

Q: By that time, a reasonable person could infer that the conflict in Afghanistan was about to widen substantially.

A: Quite the opposite. It wasn't like that. I think maybe your watching the news was very little at that time. The Americans were saying at the time that this war would take a long time. They were saying that the Taliban fighters were very ferocious in their fighting. That is what they were saying in the news. They weren't saying their enemy was weak and they were going to finish this in moments. Maybe the news in your country was something political and they wanted to gain something political from it. We, the simple people, take in the news as we hear it and that's what we heard.

Q: When you were in Afghanistan, I know you said you didn't remember the town you left your valuables in, but can you tell us a little bit about what you did before things turned bad?

A: First of all, why did I forget the name of the place? The names of these places were in a language that was not my own. It was for the first time I was hearing the names of these places. My work, the charity work, is always in villages, so it wasn't very useful to me or it didn't mean much to memorize the names of these villages. That is the reason I forgot the name.

After this Afghan man took me in and I stayed with him, by the way, I just want to make you aware that this Afghani man spoke Arabic. He was the middleman between me and the people I was going to teach. I would teach in Arabic and he would translate it into Afghan. With the Koran, you have to teach it in Arabic. We don't have any translations; it has to be read in Arabic.

So, I was moving around between different mosques and every so often I would stay with different people with this Afghani man that had offered me this opportunity. I would teach them whatever was related to that certain period of time. For example, teaching them how to pray and to read short passages. They can't pray without those passages. I would teach them things that were not disputed between Muslims.

I moved around from place to place for a short while and then everything went bad. Then, the phase of trying to escape began.

Q: I know it may be difficult, but can you estimate how long that was? A couple days or weeks?

A: I swear to God it's difficult because I went through difficult situations at that time. These periods of time are very far away right now. It wasn't long, but I just can't remember exactly.

Q: You were on vacation from your job?

A: By God I remember that I did take a vacation, but I don't remember if it was a medical leave. I don't remember exactly, but I know there was something. Just keep in mind that when I was here, I stopped eating and drinking for about 100 days, so I have forgotten a lot of things. The details, I cannot remember. You can take that information from my interrogation files. I'm sure that I gave it to them [interrogators] in the beginning.

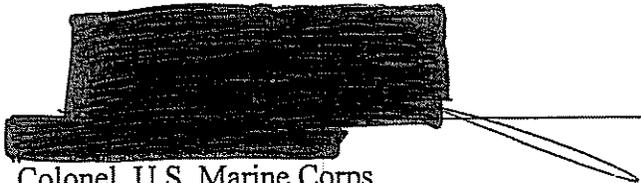
The Detainee made the following final statement:

I hope that you really are fair in this Tribunal and that you do not punish me for things that other people have done. If I made a mistake, and you want to punish me for that, I don't have a problem with that because it was something that I did. Don't place other people's mistakes on me.

The Detainee asked to speak with his Personal Representative following the Unclassified portion of the Tribunal and the Tribunal President allowed this, as long as the Personal Representative's schedule allows it.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

A large black rectangular redaction covers the signature of the Tribunal President. Two thin lines extend from the right side of the redaction, pointing towards the text below.

Colonel, U.S. Marine Corps
Tribunal President

ISN# 
Enclosure (3)
Page 14 of 14

DETAINEE ELECTION FORM

Date: 24 Sep 04

Start Time: 1820

End Time: 1950

ISN#: [REDACTED]

Personal Representative: [REDACTED], MAJOR, USAF
(Name/Rank)

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee wants to participate.

Detainee wants to make both an oral and written statements

Detainee did not request any witnesses.

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (20 September 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL SHAMMERI, Abd Al Aziz Sayer Uwain

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of al Qaeda.
 - a. The detainee is a member of al Qaeda.
 1. The detainee traveled from Kuwait to Iran and then to Afghanistan soon after 11 September 2001.
 2. Detainee was arrested by the Pakistani Army while attempting to cross into Pakistan from Afghanistan without identification documents.
 3. One of the detainee's known aliases was on a list of captured hard drives associated with a senior al Qaeda member.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Memorandum

UNCLASSIFIED



To : Department of Defense Date 09/15/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED] *all SM*

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ISN [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 12/10/2002
FD-302 dated 06/11/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/15/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

Page 2 of 2

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5. Abdulaziz Sayer Owain Al-Shammari

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Exhibit R3

**ANSWERS TO THE QUESTIONS FOR THE FAMILY OF
ABD ALAZIZ SAYIR AL SHAMARI**

1. Name : Abd Alaziz Sayir Al Shamari.
 No other names :
 Date of Birth : [REDACTED] 1973 (Kuwait).
 Address : [REDACTED]

2. Father Name : [REDACTED]
 Mother Name : [REDACTED]
 Brother's Names : [REDACTED]
 Sister's Names : [REDACTED]

 Wife's Name : [REDACTED]
 Date of Marriage : 2nd of May 1994
 Children Names : [REDACTED]

3. Educational Background:
 Kindergarten : Al Reg'a Kindergarten
 Elementary : Abutharr Al-Ghafari, Reg'a
 Secondary School : Naufal Ben Al Harith , Reg'a
 High School : Salem Al Mubarak, Reg'a

4. Yes, he did attend University in United Arab Emirates in Al Sharja, Imam Mohammed Ebn Saud University as Scholarship. He studied Islamic Law (Shari'a). He earned a degree in Islamic Law.

5. The latest home address he has is the same the same address on Answer No. 1
 [REDACTED] Telephone No.
 [REDACTED]

6. He went to Pakistan on the 15th October 2001 to help and aid the poor people and the refugees on the borders of Pakistan and Afghanistan. He traveled by Airplane.

7. He did tell us that he is going to Pakistan, he says that "I am going there to help these refugees and poor people at the borders and also to contribute some money on behalf of my sick and old mother to gain more blessing from God for her."

8. He joined the military in 1992 and he attended a three month course of training, then he become Sergeant , he worked as the Head of the Clerk in one of the sections in the Kuwait Army Headquarters for approximately three months, and then he resigned and worked in the Ministry of Islamic Affairs as an employee in the Department of Mosque's Affairs for about 4 years, his salary was KD270/-. He got a scholarship from Kuwait Government and then he took educational leave and went to Sharja to attend the University. He graduated in early 2001 and he came back and become a teacher of Quran (Dar Al-Quran) in the same Ministry. His salary become approximately KD680/-.

- 9 His father is a retired policeman (Chief Sergeant in the Department of General Investigations).
10. This question being answered in Answer No. 8
11. This question being answered in Answer No. 8
12. He did not quit his job, what happens is that when Abdulaziz exceeds his vacation days, his brother [REDACTED] was afraid that he will be fired (kicked-out) from his job and in Kuwait regulations if any governmental employee is fired from his job he will not be allowed to work in the Government again for a year time. Also at that time there was no communication with Abdulaziz. So he decided to file a resignation on behalf of Abdulaziz to his work, so when Abdulaziz comes back he can easily re-employed again without waiting for a year time.
13. Yes, he is married. His wife understand that he went to Pakistan to help and aids the poor people after he learned that a lot of refugees coming toward the borders of Pakistan from Afghanistan, and he always thinks of the others suffering and always try to help them. So he left Kuwait in a short vacation (2 weeks) to help those poor people and come back very shortly.
14. We have no idea about this. All we understand that he left Kuwait to Pakistan.
15. He funded his trip to Pakistan, and as we said previously, we have no idea about his trip to Afghanistan, if he did go there.
16. He usually attends the mosque close to the neighborhood, named (Al Reg'a Mosque).
17. No, he was not a member of any charitable non-governmental organizations nor Al Wafa Organization.
18. No, he was not supposed to meet anyone in particular upon his arrival to Pakistan.
19. He did call the family three days after his arrival to Pakistan and says that he arrived there safely and he is in good health and he will participate on aiding the refugees flooding to the borders and within two weeks he will be back and that was his first and last phone call.
20. No, he did not.
21. He did traveled sometimes to Saudi Arabia to visit Makkah for worshipping and the other trip was from and to Sharja while he was studying there. We do not know who he might met with.

دولة الكويت
الجمهورية العربية
الرقم المدني ٢٧٣٠٩٢٣٠٠٧٢٤



الاسم
عبد العزيز ماهر عوين
الشعري



الجنسية كويتي
الجنس ذكر
الميلاد
تاريخ انتهاء البطاقة ٢٠٠٥ / ٣ / ٨



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110067943

State of Kuwait

Civil ID Card

Civil No. 273092300724
 Name Abdulaziz Sayer Owain Zaher Al-Shammari.
 Nationality Kuwait
 Date of birth [REDACTED] 1973 Sex Male
 Expiry Date 8/3/2005

Overleaf:

Civil No. of the concerned party 273092300724
 Nationality No. 105014175
 Address [REDACTED]
 Street [REDACTED]
 Building/ Plot [REDACTED] Type of Unit [REDACTED]
 Unit No. [REDACTED] Floor [REDACTED]
 Tel. No. [REDACTED] Blood Group O +

SHEARMAN & STERLING

Washington, D.C.
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2604
Telephone: (202) 508-8000

FAX NUMBERS

(202) 508-8100
(202) 508-8101
(202) 508-8102

2002 JUL -8 P 5:30

FAX COVER SHEET

July 8, 2002.

Reference No. 33472/2

Fax Recipient(s)				
Name	Firm	Location	Fax Number	Office Phone
Robert Okun	Assistant U.S. Attorney	Washington, D.C.	202-514-8784	202-514-7282

From

Name: Katharine Brown
Telephone: 202-654-4050
Fax Number: 202-508-8100

Pages transmitted (including cover sheet): 20

Comments:

Please find a copy of the Amended Complaint filed with the Court today.

Please call with any questions.

-Katharine Brown
Legal Assistant

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Exhibit 1070

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FAWZI KHALID ABDULLAH FAHAD AL ODAH)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

KHALED A. F. AL ODAH)
Next Friend of Fawzi Khalid Abdullah Fahad)
Al Odah)
Kuwait)

OMAR RAJAB AMIN,)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MOHAMMAD R. M. R. AMEEN)
Next Friend of Omar Rajab Amin)
Kuwait)

No. CV 02-0828 (CKK)

NASSER NIJER NASER AL MUTAIRI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

NAYEF N.N.B.J. AL MUTAIRI)
Next Friend of Nasser Nijer Naser Al Mutairi)
Kuwait)

KHALID ABDULLAH MISHAL AL MUTAIRI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MESHAL A.M. TH AL MUTAIRI)
Next Friend of Khalid Abdullah Mishal)
Al Mutairi)
Kuwait)

ABDULLAH KAMAL ABDULLAH KAMAL)
AL KANDARI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MANSOUR K.A. KAMEL)
 Next Friend of Abdullah Kamal Abdullah)
 Kamal Al Kandari)
 Kuwait)

ABDULAZIZ SAYER OWAIN AL SHAMMARI)
 Detainee, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)

)
 Next Friend of Abdulazziz Sayer Owain)
 Al-Shammari)
 Kuwait)

ABDULLAH SALEH ALI AL AJMI)
 Detainee, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)

MESFER SALEH ALI AL AJMI)
 Next Friend of Abdullah Safeh Ali Al Ajmi)
 Kuwait)

MOHAMMED FUNAITEL AL DIHANI)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)

MUBARAK F.S.M. AL DAIHANI)
 Next Friend of Mohammed Funaitel Al Dihani)
 Kuwait)

FAYIZ MOHAMMED AHMED AL KANDARI)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)

MOHAMMAD A.J.M.H. AL KANDARI)
 Next Friend of Fayiz Mohammed Ahmed)
 Al Kandari)
 Kuwait)

FWAD MAHMOUD AL RABIAH)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)

MONZER M.H.A. AL RABIEAH)
Next Friend of Fwad Mahmoud Al Rabiah)
Kuwait)

ADIL ZAMIL ABDULL MOHSSIN AL ZAMIL)
Detainee, Camp X-Ray/Camp Delta)
Address Unknown)

WALID Z.A. AL ZAMEL)
Next Friend of Adil Zamil Abdull Mohssin)
Al Zamil)
Kuwait)

SAAD MADAI SAAD HAWASH AL-AZMI)
Detainee, Camp X-Ray/Camp Delta)
Address Unknown)

HAMAD MADAI SAAD)
Next Friend of Saad Madai Saad Hawash)
Al Azmi)
Kuwai)

Plaintiffs,)

v.)

UNITED STATES OF AMERICA,)

GEORGE W. BUSH,)
President of the United States)
The White House)
1600 Pennsylvania Avenue)
Washington, D.C. 20500)

DONALD H. RUMSFELD,)
Secretary of Defense)
Department of Defense)
1000 Defense Pentagon)
Washington, D.C. 20301-1000)

GENERAL RICHARD B. MYERS)
Chairman, Joint Chiefs of Staff)
9999 Joint Chiefs of Staff Pentagon)
Washington, D.C. 20318-9999)

BRIGADIER GENERAL RICK BACCUS,)
 Commander, Joint Task Force-160)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)
)
 COLONEL TERRY CARRICO)
 Commander, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba,)
)
 Defendants.)
)

AMENDED COMPLAINT

This is a civil action brought by 12 Kuwaiti nationals (the "Kuwaiti Detainees") who are being detained in the custody of the United States at the Guantanamo Bay Naval Base, Guantanamo Bay, Cuba ("Guantanamo"), and by 12 of their family members (the "Family Members") who are also Kuwaiti nationals and who speak on their behalf. The Kuwaiti Detainees have been held virtually *incommunicado* since as early as January 11, 2002. Although the Secretary of Defense was authorized by the President in the President's Military Order of November 13, 2001, to detain non-citizens if the President has made a written determination that there is reason to believe they are or were members of al Qaida, or engaged in terrorist acts against the United States, the President has made no such determination with respect to the Kuwaiti Detainees.

FYE

(Plaintiffs do not seek release from confinement in this Amended Complaint. Rather, they seek modest but essential relief while they are being detained and interrogated by defendants. They seek the right to (1) meet with their families, (2) be informed of any charges against them, (3) be able to consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal.) These are fundamental rights of due process guaranteed to detainees under the Fifth Amendment to the Constitution and customary international law. The grant of

this limited relief will not interfere in any way with the ability of the United States to conduct its essential war against terrorism or to determine who was responsible for the horrible acts of September 11, 2001, and to bring those individuals to justice.

**I.
JURISDICTION AND VENUE**

1. The Court has subject matter jurisdiction of this civil action under 28 U.S.C. §§ 1331, 1350, and 1361. A cause of action exists under the Constitution, 5 U.S.C. § 702, 28 U.S.C. §§ 1350, 2241-2243, and the laws of nations and treaties of the United States. To the extent immunity to this suit may be asserted by defendants, that immunity is waived by 5 U.S.C. § 702. The Court is authorized to grant the relief requested by plaintiffs under 5 U.S.C. § 706, and 28 U.S.C. §§ 1350, 1361, 1651, 2201, 2202, and 2241-2243.

2. Venue lies in this Court under 28 U.S.C. §§ 1391(b), (e).

**II.
PARTIES**

3. Plaintiffs Fawzi Khalid Abdullah Fahad Al Odah, Omar Rajab Amin, Nasser Nijer Naser Al Mutairi, Khalid Abdullah Mishal Al Mutairi, Abdullah Kamal Abdullah Kamal Al Kandari, Abdulaziz Sayer Owain Al Shammari, Abdullah Saleh Ali Al Ajmi, Mohammed Funaitel Al Dihani, Fayiz Mohammed Ahmed Al Kandari, Fwad Mahmoud Al Rabiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Alzmi (the "Kuwaiti Detainees") are Kuwaiti nationals who are detained under the custody of the United States at Guantanamo.

4. Plaintiff Khaled A.F. Al Odah is a Kuwaiti national and the father of plaintiff Fawzi Khalid Abdullah Fahad Al Odah; plaintiff Mohammad R.M.R. Ameen is a Kuwaiti national and the brother of plaintiff Omar Rajab Amin; plaintiff Nayef N.N.B.J. Al Mutairi is a Kuwaiti national and the brother of plaintiff Nasser Nijer Naser Al Mutairi; plaintiff Meshal A.M.TH Al

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Mutairi is a Kuwaiti national and the brother of plaintiff Khalid Abdullah Mishal Al Mutairi; plaintiff Mansour K.A. Kamel is a Kuwaiti national and the brother of plaintiff Abdullah Kamal Abdullah Kamal Al Kandari; plaintiff [REDACTED] is a Kuwaiti national and the father of plaintiff Abdulaziz Sayer Owain Al Shammari; plaintiff Mesfer Saleh Ali Al Ajmi is a Kuwaiti national and the brother of Abdullah Saleh Ali Al Ajmi; plaintiff Mubarak F.S.M. Al Daihani is a Kuwaiti national and the brother of plaintiff Mohammed Funaitel Al Dihani; plaintiff Mohammad A.J.M.H. Al Kandari is a Kuwaiti national and the father of plaintiff Fayiz Mohammed Ahmed Al Kandari; plaintiff Monzer M.H.A. Al Rabieah is a Kuwaiti national and the brother of plaintiff Fwad Mahmoud Al Rabiah; plaintiff Walid Z.A. Al Zamel is a Kuwaiti national and the brother of plaintiff Adil Zamil Abdull Mohssin Al Zamil, and plaintiff Hamad Madai Saad is a Kuwaiti national and the brother of plaintiff Saad Madai Saad Al-Azmi. The plaintiffs other than the Kuwaiti Detainees are referred to as the Family Members.

5. Defendant George W. Bush is the President of the United States; defendant Donald H. Rumsfeld is the Secretary of Defense; defendant General Richard B. Myers is the Chairman of the Joint Chiefs of Staff; defendant Brigadier General Rick Baccus is the Commander of Joint Task Force-160, which is responsible for the detention operation at Guantanamo; defendant Colonel Terry Carrico is the Commandant of Camp X-Ray/ Camp Delta at Guantanamo and the custodian of the detainees at Guantanamo. They are sued in their official and individual capacities. The Executive Branch of the United States Government, designated as the United States of America, is also a defendant.

III. FACTS

The Terrorist Attacks of September 11, 2001

6. On September 11, 2001, terrorists struck the United States, hijacking four airplanes and flying three of them into the twin towers of the World Trade Center in New York City and the Pentagon, killing thousands of innocent people. Soon after this terrorist attack, the United States Government identified the terrorists as members of the al Qaida terrorist organization.

7. In the wake of the terrorist attack of September 11, 2001, President Bush launched a military campaign against al Qaida headquartered in Afghanistan and supported by the Taliban Regime. On September 18, 2001, Congress adopted a Joint Resolution that authorized the President to use force against the "nations, organizations, or persons" that "planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons." Joint Resolution 23, Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224. The United States' military campaign against al Qaida and the Taliban is being conducted in cooperation with other nations, including Pakistan, as well as a coalition of Afghani groups known as the Northern Alliance, which opposes the Taliban.

8. On information and belief, some members and supporters of al Qaida and the Taliban have attempted to hide from the United States and its allies during the military campaign in dispersed areas of Afghanistan and Pakistan. On information and belief, the United States and its allies have encouraged local authorities in Afghanistan and Pakistan to assist in the location, identification, and apprehension of these al Qaida and Taliban members and supporters.

President Bush's Military Order of November 13, 2001

9. On November 13, 2001, President Bush issued the Military Order of November 13, 2001, entitled "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism" (the "Military Order"). 66 Fed. Reg. 57,831 (Nov. 16, 2001).

10. Section 1 of the Military Order recites "Findings" about the terrorist attacks of September 11, 2001, including a finding that "it is necessary for individuals subject to this order * * * to be detained."

11. In section 2(a) of the Military Order, President Bush defines the term "individual subject to this order" to mean "any individual who is not a United States citizen with respect to whom I determine from time to time in writing that":

(1) there is reason to believe that such individual, at the relevant times,

(i) is or was a member of the organization known as al Qaida;

(ii) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or

(iii) has knowingly harbored one or more individuals described in subparagraphs (i) or (ii) of subsection 2(a)(1) of this order, and

(2) it is in the interest of the United States that such individual be subject to this order.

12. Section 2(b) of the Military Order declares that "[i]t is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4."

13. Section 3 of the Military Order provides that "[a]ny individual subject to this order shall be (a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States."

Seizure of the 12 Kuwaiti Detainees

TV (14) On information and belief, the Family Members allege that the Kuwaiti Detainees were in Afghanistan or Pakistan, some before and some after September 11, 2001, as volunteers for charitable purposes to provide humanitarian aid to the people of those countries, such as assisting in developing potable water sources, working in hospitals, and arranging for the sponsorship of orphans. There is a long tradition of such volunteer service by Kuwaiti nationals in countries of crisis worldwide, including Afghanistan and Pakistan. Such volunteer service is encouraged by the Kuwaiti Government and Kuwaiti employers. One aspect of the Kuwaiti Government support of volunteer service is by continuing to pay the salaries of its Kuwaiti employees while they are engaged in such volunteer service abroad.

TV (15) On information and belief, the Family Members allege that none of the Kuwaiti Detainees is or ever has been a combatant or belligerent against the United States, or a member or supporter of al Qaida or the Taliban, or a member of any terrorist organization, and that none of the Kuwaiti Detainees has ever engaged in or supported any terrorist or hostile act against the United States. None of the Family Members has ever engaged in or supported any terrorist or hostile act against the United States, and on information and belief the Family Members allege that no other member of their families has ever engaged in or supported any terrorist or hostile act against the United States.

TV (16) On information and belief, the Family Members alleged that the Kuwaiti Detainees were seized against their will in Afghanistan or Pakistan after September 11, 2001, by local

villagers seeking promised bounties or other financial rewards, and that, subsequently, they were taken into custody by the United States. Several of the families of the Kuwaiti Detainees received letters from several of the Kuwaiti Detainees after they were taken into custody by the United States expressing the sentiment: "Thank God I am now with the Americans," and a confidence that they would soon be able to return home to their families.

United States' Detention of the Kuwaiti Detainees

17. President Bush has not determined in writing that there is reason to believe that, at the relevant times, any of the Kuwaiti Detainees is or was a member of the organization known as al Qaida, or has engaged in any of the acts described in section 2 of the Military Order, or that it is in the interest of the United States that any of the Kuwaiti Detainees be subject to the Military Order.

18. None of the other defendants has stated publicly or informed plaintiffs why or on what basis the Kuwaiti Detainees are being detained. None of the defendants has stated publicly or informed plaintiffs that the Kuwaiti Detainees are enemy combatants or belligerents against the United States.

19. William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, sent a letter dated March 25, 2002, to the Ministry of Foreign Affairs of Kuwait, stating that plaintiff Fawzi Khalid Abdullah Fahad Al Odah has been in detention under United States custody at Guantanamo since February 13, 2002; plaintiff Omar Rajab Amin has been in detention under United States custody at Guantanamo since January 11, 2002; plaintiff Nasser Nijer Naser Al Mutairi has been in detention under United States custody at Guantanamo since February 7, 2002; plaintiff Khalid Abdullah Mishal Al Mutairi has been in detention under United States custody at Guantanamo since February 9, 2002; plaintiff Abdullah Kamal

Abdullah Kamal Al Kandari has been in detention under United States custody at Guantanamo since February 11, 2002; and plaintiff Abdulaziz Sayer Owain Al Shammari has been in detention under United States custody at Guantanamo since February 9, 2002.

20. The family of plaintiff Abdullah Saleh Ali Al Ajmi received a letter from him dated February 28, 2002, mailed from Guantanamo on March 1, 2002, which indicates that he is in detention under United States custody at Guantanamo.

21. On May 6, 2002, a Kuwaiti attorney representing the Family Members was informed by the Government of Kuwait that it received written confirmation from the United States Government that plaintiffs Fayiz Mohammed Ahmend Al Kandari, Fwad Mahmoud Al Rabiiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Al-Azmi are in detention under custody of the United States at Guantanamo. No confirmation has been received to date concerning plaintiff Mohammed Funaitel Al Dihani.

22. On April 3, 2002, Abdul Rahman R. Al-Haroun, a Kuwaiti attorney retained by the families of the Kuwaiti Detainees, received from the Government of Kuwait a copy of the letter referred to in paragraph 19, from William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, to the Ministry of Foreign Affairs of Kuwait.

23. On April 6, 2002, Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah, representing the families of the Kuwaiti Detainees, met at the United States Embassy in Kuwait with Andrew Morrison, First Secretary and Head of the Political Section of the Embassy, and Yousef Khalil, a political specialist at the Embassy. Plaintiff Khaled A.F. Al Odah had previously submitted to the United States Embassy a list containing the names of ten of the 12 plaintiff Kuwaiti Detainees, seeking information about them. At the time of the meeting, plaintiff Khaled A.F. Al

Odah did not have information that plaintiffs Adil Zamil Abdull Mohssin Al Zamil and Saad Madai Saad Al-Azmi were in the custody of the United States.

24. During the meeting of April 6, Mr. Al-Haroun and plaintiff Khaled A.F. Al-Odah asked Mr. Morrison and Mr. Khalil to provide them with information about the ten Kuwaiti Detainees on the list previously submitted by plaintiff Khaled A.F. Al Odah. Specifically, they asked Mr. Morrison and Mr. Khalil to confirm that these ten Kuwaiti Detainees were in the custody of the United States; to identify the location of their detention; to provide their families with the opportunity to contact and meet with them; to advise whether any of them were being accused of wrongdoing, and if not, why they were not being released; and, if any of the ten were being investigated, to grant them access to counsel of their choice and conditional release during the pendency of the investigation.

25. At the meeting of April 6, Mr. Morrison and Mr. Khalil did not provide Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah with any information about the ten plaintiff Kuwaiti Detainees on the list submitted by plaintiff Khaled A.F. Al Odah, and would neither confirm nor deny that any of those Kuwaiti Detainees were in the custody of the United States. However, Mr. Morrison said he would take Mr. Al-Haroun's and plaintiff Khaled A.F. Al Odah's requests under consideration, consult with others, and provide them with a reply.

26. Mr. Al-Haroun and plaintiff Khaled A.F Al Odah have not received any reply to their requests from Mr. Morrison or Mr. Khalil or from anyone else at the United States Embassy in Kuwait or in the United States Government.

27. Counsel for plaintiffs have been told by the Defense Department that, to maintain "force protection," the Defense Department has adopted a policy not to disclose the identities of, or other information about, specific individuals detained by the United States to their families or

representatives. Counsel for plaintiffs further have been told by the Defense Department that the United States is making such disclosures only to the governments of the countries in which those individuals are nationals.

28. The Family Members have not been permitted to meet with the Kuwaiti Detainees.

29. On information and belief, the Family Members allege that the Kuwaiti Detainees have not been informed of the charges, if any against them; they have not been granted the right to designate or consult with counsel of their choice; and they have not been granted access to the courts or any other impartial tribunal during their detention.

Guantanamo

30. ~~Under the Lease of Lands for Coaling and Naval Stations, Feb. 16-23, 1903, U.S.-~~

Cuba, T.S. No. 418, 6 Bevans 1113, as extended by the Treaty on Relations with Cuba, May 29, 1934, U.S.-Cuba, art. III, 48 Stat. 1682, 1683, T.S. No. 866, although the United States recognizes the sovereignty of Cuba over Guantanamo, "the Republic of Cuba consents that * * * the United States shall exercise complete jurisdiction and control over and within" Guantanamo during the lease. The United States has occupied Guantanamo Bay since 1903, and has repeatedly declared its intention to remain there indefinitely.

31. According to the Office of Legal Counsel of the Department of Justice, "the Guantanamo Base would constitute land 'acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof.' Accordingly, it would appear to come within [18 U.S.C.] § 7's definition of land 'within the special maritime and territorial jurisdiction of the United States.'" 6 Op. O.L.C. 236, 1982 OLC LEXIS 58 (Mar. 29, 1982). Consistent with this opinion, criminal prosecutions under Title 18 of the United States Code of civilians and aliens who commit offenses at Guantanamo are triable exclusively in mainland United States courts.

See, e.g., *United States v. Chambers*, 940 F.2d 653 (4th Cir. 1991), unpublished opinion available at No. 90-5664, 1991 WL 137232 (July 29, 1991); *United States v. Lee*, 906 F.2d 117, 117 n. 1 (4th Cir. 1990); *United States v. Rogers*, 388 F. Supp. 298, 301 (E.D. Va. 1975). See also 25 Op. Atty. Gen. 157 (1904) (Guantanamo Naval Station "is practically a part of the Government of the United States").

32. The United States Navy has described Guantanamo as "a Naval reservation which, for all practical purposes, is American territory. Under the [lease] agreements, the United States has for approximately [ninety] years exercised the essential elements of sovereignty over this territory, without actually owning it. Unless we abandon the area or agree to a modification of the terms of our occupancy, we can continue in the present status as long as we like. [According to the United States p]ersons on the reservation are amenable only to United States legislative enactments." See *The History of Guantanamo Bay: An Online Edition* (1964), available at <http://www.nsgtmo.navy.mil/history.htm>.

Defendants' Statements About Detention at Guantanamo

33. According to a "Fact Sheet" issued by the White House on February 7, 2002, President Bush has determined that the principles of the Third Geneva Convention of 1949 apply to the treatment of the "Taliban detainees" at Guantanamo, but not to the "al Qaida detainees" at Guantanamo. However, the President has determined that neither the "Taliban detainees" nor the "al Qaida detainees" will be accorded prisoner-of-war status.

34. Defendants have not publicly disclosed or informed plaintiffs whether any of the Kuwaiti Detainees are "Taliban detainees" or "al Qaida detainees," as those terms are used in the White House "Fact Sheet" of February 7, 2002.

35. In a radio interview on February 27, 2002, Secretary Rumsfeld said with respect to the approximately 300 detainees at Guantanamo: "[T]hey have all now, except for one or two, been questioned and interrogated, looking for intelligence information so that we could stop other terrorist threats, people from attacking our country and our friends and allies and our deployed forces," and that "[w]e're now starting the process of doing a series of interrogations that involve law enforcement. That is to say to determine exactly what these individuals have done. Not what they know of an intelligence standpoint, but what they've done from a law enforcement standpoint. That process is underway." United States Department of Defense News Transcript, Rumsfeld Interview with KTSP-ABC, St. Paul, Minnesota, February 27, 2002, p. 2. Secretary Rumsfeld continued that the detainees "will fall into four or five baskets. One is if we find that someone's an innocent and shouldn't have been brought there, why they would be released." *Id*

36. In a Pentagon news briefing on March 28, 2002, Secretary Rumsfeld said with respect to the detainees at Guantanamo: "The fact is that the first people we brought down were in fact the hardest of the hard core, because we wanted to get them out of the Kandahar and Bagram facilities. Now we have brought down a large portion of the people, and now it is [a] mix, and they vary. They run pretty much across the spectrum. It seems to me that that being the case one can expect that what will happen will be exactly what I said: that some may be transferred to other countries, some may be released, some may be held for the duration, some may be tried in one or more of the various mechanisms that are available – the United States criminal justice system, military commissions, or the Uniform Code of Military Justice. * * * I think the better way to look at it is not at that group of people in the aggregate, but as I've

indicated, individually." United States Department of Defense, News Transcript, DoD News Briefing – Secretary Rumsfeld and Gen. Myers, March 28, 2002, pp. 3, 4.

**IV.
CLAIMS FOR RELIEF**

Based on the allegations in paragraphs 1 through 36, plaintiffs claim:

First Claim: Denial of Due Process – Violation of the Fifth Amendment

37. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have denied and are denying the Kuwaiti Detainees fundamental due process, in violation of the Due Process Clause of the Fifth Amendment to the Constitution.

Second Claim: Tortious Conduct Within the Meaning of the Alien Tort Claims Act

38. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary detention, which is tortious conduct in violation of the law of nations and a treaty of the United States, and actionable under the Alien Tort Claims Act, 28 U.S.C. § 1350.

Third Claim: Arbitrary and Unlawful Conduct -- Violation of APA

39. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even

during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary, unlawful, and unconstitutional conduct, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 555, 702, 706.

V.
PRAAYER FOR RELIEF

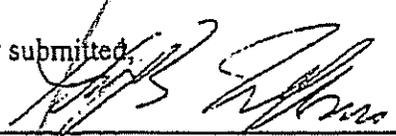
Based on the allegations in paragraphs 1 through 39, plaintiffs pray for the following relief:

40. A preliminary and permanent injunction, enjoining defendants from refusing to permit the Kuwaiti Detainees at Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements.

41. A declaration that defendants' refusal to permit the Kuwaiti Detainees at Guantanamo to 1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements, is a violation of the Due Process Clause of the Fifth Amendment to the Constitution, tortious conduct under the Alien Tort Claims Act, and arbitrary, unlawful, and unconstitutional conduct in violation of the Administrative Procedure Act.

42. Reasonable attorneys' fees and the costs of this action, and such other and further relief as the Court may deem necessary or appropriate.

Respectfully submitted,



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Neil H. Koslowe (D.C. Bar #361792)
Kristine A. Huskey (D.C. Bar #462979)
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Attorneys for Plaintiffs

Dated: July 8, 2002

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FAWZI KHALID ABDULLAH FAHAD AL ODAH,)
et al.,)

Plaintiffs,)

v.)

UNITED STATES OF AMERICA, *et al.*,)

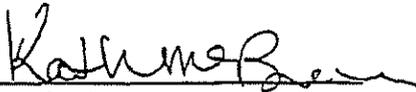
Defendants.)

No. CV 02-0828 (CKK)

CERTIFICATE OF SERVICE

I certify that today, July 8, 2002, I served Plaintiffs' Amended Complaint upon
defendants by causing a copy to be mailed by first-class mail, postage prepaid, and by causing a
copy to be transmitted by facsimile, to defendants' counsel of record:

Roscoe C. Howard, Jr.
United States Attorney
Robert Okun
Assistant United States Attorney
Room 11-858
555 Fourth Street, N.W.
Washington, D.C. 20530


Katherine Brown
Legal Assistant

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بسم الله الرحمن الرحيم
الحمد لله الذي لا اله الا هو ، والصلاة والسلام على سيدنا محمد خاتمة
الأنبياء والرسل
أما بعد :

بالنسبة لرددي على إتهامي بأني عضو في جماعة القاعدة ، فأني أقول : إن هذا الإتهام
ليس له أي شئ يستند عليه ، بل هو مجرد كلام ليس عليه دليل يدل عليه ، كان
يكون وجد معي وصولات مالية تفيد أنني قدمت زعم مالي للقاعدة ، أو يكون أنني
القبض علي في مكان خاص بجماعة القاعدة ، أو شهودت وأنا أحضر اجتماعاتهم ، أو
عرف بأني على علاقة قوية بأسماء ابن لادن ، فأني دليل نسبت إلى القاعدة ،
ولم يحصل أي شئ من هذا .

أولاً : ما علاقة السفر إلى أفغانستان بالقاعدة ، وكيف يجعل السفر إلى بلد كبير
فيه ملايين الناس هو سفر إلى القاعدة التي لا تمثل بالنسبة لذلك العدد نسبة
1% ، فهل يعتبر من سافر إلى الصين شيوعي ؟ ، وهل يعتبر من سافر إلى العراق
تابع لحزب البعث ؟

أما كوني سافرت من بلدي الكويت بعد أحداث سبتمبر فهذا أمر طبيعي
جداً ، فإن هذه الأحداث حصلت في أمريكا ، فالإضراب والإرتباك لم يكن موجود
إلا في أمريكا ، وأما باقي دول العالم فإن الإوضاع كانت طبيعية ، والناس كانوا
يمارسون حياتهم الروتينية ، فلا يوجد أي غرابه في سفري .

ثم إنني تعرفت على رجل أفغاني في إحدى سفراتي إلى العمرة إسمه محمد وهو مقيم
في إيران ، فعرض علي السفر إلى أفغانستان لتدريس القرآن واللغة العربية طبعاً هذا
بعد ما عرف أنني درست العلوم الإسلامية لمدة أربع سنوات في جامعة الإمام محمد بن
سعود الإسلامية وتخرجت بدرجة جيد جداً ببارق قليل عن الإمتياز - وأنا لا أذكر
تاريخ تعرفي عليه لأني نسيت الآن - وكان هذا الرجل أعطاني رقم هاتفه وقال لي :
إذا أردت أن تحجيب الدعوه فاتصل على هاتفني وأنا أرتب كل شئ لك .

ثم رجعت إلى الكويت ، وبعد فترة من الزمن عندما حصلت الإضرابات في
أفغانستان قررت إجابة الدعوه في التدريس بالإضافة إلى مساعدة بعض المحتاجين ، بعد
تحويل أهلي لي بعض الأموال ، هكذا كانت الفكرة ، خصوصاً بعدما شاهدت في التلفاز
حاجة الناس ، وهذا أمر غير مستغرب لأن عمل الإغاثات لا يكون إلا بعد حصول الكوارث
والإضرابات ، وأسافي حال السلم والأمان والرخاء فلا أحد يحتاج إلى إغاثته ، وللعلم
أن أفغانستان لم تقف فيها الحرب منذ سنوات طويلة فلا يوجد فرق بين ما قبل سبتمبر
أو بعده ، وكنت أظن أن الحرب ستكون في أماكن القتال ، وأن القتال لن يصل إلى المدن
والقرى ، أو ستكون هناك محاولة إغتيال لأشخاص معينين أو إختطاف لهم كما حصل
لرئيس بنما وسيقف الأمر عند هذا الحد .

وكنت أظن أن سفري سوف يكون عن طريق إيران ثم باكستان - وهذا ما أخبرني به عائلتي - لأني أعرف أن العلاقة بين إيران وأفغانستان سيئة ، ولكن عند إتصالي بهذا الرجل الأفغاني «محمد» قال لي: أن بإمكاننا الدخول إلى أفغانستان عن طريق إيران فإن النقطة الحدودية التي بينهما تعمل ، فقلت: إذاً لا توجد حاجة للسفر إلى باكستان خصوصاً أنه يحتاج إلى فيزة أخرى ..

وكنت أنوي أن اجلس فترة قصيرة ثم أرجع ، وهناك عدة أدلة على هذا ، منها أنني كنت أرسلت شهاداتي الثانوية والجامعية إلى جمهورية مصر العربية حتى أكمل دراسة الماجستير في العلوم الإسلامية ، وقد دفعت رسوم التسجيل ، وكنت أنتظر الإجابة على طلبي ، وكانت هذه المراسلة قبل سفري بأشهر قليلة ، وهي عن طريق وزارة التعليم العالي بدولة الكويت ، وهي مؤسسة حكومية . ولم يوافق ملفي إلا بعد سجنني . ثم أيضاً كنت قدمت أوراقى حتى أحسن ووضعي الوظيفي من مدرس بدار القرآن التابعة لوزارة الأوقاف والشؤون الإسلامية ، إلى مدرس في المعاهد التطبيقية بعد ابتعاني من قبل الحكومة حتى أحصل على شهادة الدكتوراة وهذه المعاهد تعطي شهادة أعلى من الثانوية وأقل من البكالوريوس وطبعاً هذا لم يحصل لأني سجننت ، فكيف أكون سافرت حتى التحق بالقاعدة ، وأنا لأعمل كل هذه الترتيبات .

وللعلم أن سفري كان عن طريق المنافذ الرسمية وبوثائق سفر حكومية ولم يكن موجود في جواز سفري الكويتي أي شيء يدل على عدم جواز السفر إلى أفغانستان ، فإن كان يوجد منع فالحظاً على حكومتي التي لم تخبرني بهذا المنع . بل كتبت في جوازي " هذا الجواز صالح للسفر لجميع دول العالم مالم يذكر خلاف ذلك " ولم يذكروا أفغانستان .

ثانياً : بعد سقوط جلالبان ، طُلب أي عربي في أفغانستان حياً أوميتاً ، بغض النظر هل هو مقاتل أولاً ، لأنهم كما سمعت أصبحوا يشنون العرب ويبيدونهم فحفت عند سماع هذه الأخبار ففكرت للهروب بسرعة ، وكما هو معلوم لديكم أن المسافر في أغلب الأوقات لا يحمل جواز سفره معه بل يتركه مع أماناته وحقائبه ، خصوصاً في بلد أفغانستان ، لأنه لا يوجد أحد يسأل أحداً عن إثباته ^{أفغانستان} ، لذلك لم يكن باستطاعتي الرجوع إلى حقائبي ، لأن الأحداث بدأت تتطور تطوّر سريع جداً وخطير ، فقلت للرجل الذي معي أريد أن أخرج بسرعة فرتب لي خروجي ، وكما تعلمون أن الحرب إذا بدأت وسقطت الحكومة ويرأ الناس يتقاتلون فيما بينهم وهرب الضعفاء ، فإنهم لا يلجأون إلى المراكز الحدودية المعروفة ، لأنهم يعرفون أن المسلحون سيطروا عليها وسيفتلون من يأتيتهم ، وهذا بالضبط ما حصل في أفغانستان ، فقد أصبح القتل أبسط شيء .

لذلك كان من الطبيعي أن ألجا إلى باكستان ماشياً على الأقدام ، حتى أذهب إلى السفارة هناك فترتب أوضاعي ، ومما يدل على أنني إنسان غير خطير ، وليس عندي أي أسرار ، أنني سلمت نفسي إلى الشرطة من غير مطاردة أو مقاومة أو شيء آخر . ثم معاملة فظة تتجاوزي للحدود بالقاعدة ، هل كل من تجاوز الحدود في ذلك الوقت فهو شخص ينتمي للقاعدة ، هذا كلام لا يقال ، فإن العراق حين احتل بلدي الكويت ، وهدد ~~الرجال~~ الشباب والنساء إلى السعودية والأردن وإيران لم نرى أحداً يقبض عليهم ويقول أنتم تتبعون صدام حسين . مع العلم أنهم كانوا يتسللون خفية عند قلع الحدود ومن غير وثائق سفر ، ولم تقبض عليهم سلطات تلك البلاد بل كانت تساعدهم وتعمل لهم مخيمات طبية ~~تعالجهم~~ فيها ، فإنه في تلك الظروف لا أحد يسأل عن الوثائق لأن الظروف غير عادية في تلك البقعة من الأرض .

ثم لنفترض فرضاً أنني أخطأت في هذا الأمر - أقصد في تجاوزي للحدود من غير وثائق - فإن الإجراء المعروف في مثل هذه الحالة في جميع دول العالم ، أنه يتم اعتقاله حتى تتعرف السلطات الباكستانية على هويتي وبلدي ثم ترسلني إلى بلدي إلا أن تسلمني إلى السلطات الأمريكية ، على أنني فرد من أفراد القاعدة أو طالبان ، فإن هذا يعني غير معقول ، مع العلم بأنهم سألوني عن بياناتي الشخصية وأعطيتهم من أول لحظة ، وقالوا لي سنأكد منها من حكومة الكويت ، فعلى أي شيء سلموني لكم .

ثالثاً - أنا اسمي عبد العزيز ساين الشمري ، ولا يوجد لي أي اسم غير هذا الاسم ، ولا يوجد لي أي علاقة بأي شخص من القاعدة ، ولما إذا وجد اسم مثل اسمي على جدول عند أحد الأشخاص ، فهذا قد يكون تشابه في الأسماء لأنه يوجد ملايين الأشخاص العرب يحملون نفس اسمي ، فإن اسمي تكثر التسمية به ، ثم إنتم لم تجدوا إثباتاتي الشخصية عنده حتى تقولوا أنت وضعت هذه الأشياء عنده فهذا يدل على علاقة بينكما ، غاية ما وجد اسم يشبه اسمي .

ثم لنفترض أن الاسم المكتوب اسمي ، فأنا لا أستطيع أن أمنع أي شخص من كتابة اسمي في أي شيء يريد لأن هذا ليس باستطاعتي ، فعلى سبيل المثال لو أن هتار كتب اسمي فأنا لن أذهب إليه وأقول له لماذا كتبت اسمي ، طالما أنا ليس لي علاقة به فأنا غير مسؤول عن كتابته . وليكتب من شاء ما شاء ، ليس لي علاقة به ، ثم إن هذا الجدول ماهو إلا مجرد أسماء فقط لا يعرف أي شيء عنها ، وكيف تقولون أنها من القاعدة .

هذا إذا لم تكن هذه القائمة تزوير من قبل المحققين ، فإن أي إنسان يستطيع أن يطبع في الكمبيوتر ما شاء في أي وقت شاء ، ثم يقول وجدت هذا في الكمبيوتر هذا وصلى الله وسلم على نبينا محمد .

ملاحظة : كيف أنسب إلى القاعدة ولم أسافر لهم ولولمة واحدة ، ولم أشارك في اجتماعاتهم وفتاتهم . ثم لو كنت أريد أن أقاتل ضد الأمر وكان لما إحتاج الأمر لسفري إلى أفغانستان لأن الأمر كان موجودون في الكويت عندي فلما أرتقت قتلهم لقاتلتهم في الكويت ولوفرت أموال التي سافرت فيها ولكن لما لم يحصل هذا دل على عدم وجود أي عداة عندي للأمر وكان كسبه : عبد العزيز ساين الشمري

In the name of God, most Gracious, most Merciful

Thanks to Allah who there is no God but him, and prayers and peace be upon our prophet Mohammed, the last of the prophets and messengers.

Here now:

Regarding my answer to the accusation that I am a member of Al Qaeda, so I say: That this accusation does not have anything to support it, but it is merely words with no evidence to prove it, as if monetary receipts were found on me to indicate that I had given financial support to Al Qaeda, or that I was arrested in a place specific to Al Qaeda, or that I was seen attending their meetings, or that it was found that I have a strong relationship with Usama Bin Laden, so on what grounds have I been associated with Al Qaeda, when none of these things have happened.

First:

What is the relationship between traveling to Afghanistan and Al Qaeda, and how can it be that travel to a large country with millions of people is travel for Al Qaeda which does not represent 1% of that number, for is a person who traveled to China considered a communist? And is a person who traveled to Iraq considered loyal to the Baath Party? As for the fact that I traveled from my country, Kuwait, after the events of September, this is a very natural thing, for these events occurred in America, so the chaos and confusion was not present anywhere but America, but as for the rest of the countries in the world the situation was normal, and people were going about their routine lives, so there was nothing strange about my trip.

Also I had met an Afghani man on one of my trips to the "Omra" whose name was Mohamed and he lives in Iran, so he proposed to me to travel to Afghanistan to teach the Quran and the Arabic language and Islamic studies. Of course this is after he learned that I studied Islamic Studies for 4 years at the Imam Mohamed Bin Saud Islamic University and I had graduated with a "Very Good" just a few marks away from "Excellent"-and I don't recall the date I met him because I have forgotten at this time-and this man gave me his phone number and said to me: If you wish to accept my offer, then call me on my phone and I will arrange everything.

Then I returned to Kuwait and after a period of time when the problems happened in Afghanistan I decided to accept the offer to teach in addition to helping some of the needy, after my family had transferred some money to me, that was the idea, especially after I had seen on television the need of the people, and that is not a peculiar thing because rescue work does not happen unless it is after a disaster or problem, whereas in times of peace and security and prosperity, no one needs rescuing, and for your knowledge war in Afghanistan had not stopped for many long years so there was no difference between before September or after, and I had thought that the war would be on the battlegrounds and that the fighting would not reach the cities and villages, or that there would be an assassination attempt on certain individuals or their kidnapping as it had happened to the president of Panama and that the matter would end at that.

And I thought my trip would be via Iran, then Pakistan-and that is what I told my family- because I knew that the relationship between Iran and Afghanistan was bad, but after

calling that Afghani man Mohamed he said to me: It is possible for us to enter Afghanistan via Iran, for the border crossing point between them is operating, so I said: Then there is no need to travel to Pakistan, particularly since it requires another Visa. And I had intended to stay for a short period then return, and there are several facts that support that, including that I had sent my High school and University diplomas to the Arab Republic of Egypt so as to continue my studies towards my Masters in Islamic Studies, and I had paid my registration dues, and I was waiting for an answer to my application, and this was done through the Ministry of Higher Education in the country of Kuwait, and it is a Government organization. And my application was not closed until after my imprisonment. Then I also presented my paperwork in order to improve my position at work from a teacher at Dar Al Quran, which is a part of the Ministry of Islamic Affairs and Charity, to a teacher at the Institute of Applications after I was sent by the government to obtain a Doctorate Degree and those institutes award diplomas higher than High School and lower than a Bachelors and of course that did not happen because I was imprisoned, so how could I have traveled to meet with Al Qaeda, when I had made all those arrangements? And for your knowledge my trip was via official channels and with government issued travel documents and there was nothing in my Kuwaiti passport to indicate that it was forbidden to travel to Afghanistan, for if there was a restriction, then the mistake is on my government's part that did not tell me of this restriction. But it was written in my passport that "This passport is valid for travel to all countries in the world unless it is otherwise mentioned" and they did not mention Afghanistan.

Second:

After the fall of the Taliban, every Arab in Afghanistan was wanted dead or alive, whether or not he was a combatant in the first place, because as I heard they had started buying Arabs and selling them, so I became afraid at hearing this news so I decided to escape quickly, and as it is known by you that the traveler most of the time does not carry his passport with him but leaves it with his valuables and luggage, especially in a country like Afghanistan, because no one asks anyone about their identification in Afghanistan, that's why I could not return to my luggage because the events had started to evolve a very fast and dangerous evolution, so I said to the man that was with me I want to leave quickly so he arranged my departure for me and as you know had the war started and the government fell and people started to fight amongst themselves and the weak escaped, they would not have taken refuge at the known border stations, as they know that armed individuals had taken over them and would kill anyone who went there, and that is exactly what happened in Afghanistan, for killing had become the simplest thing. So it became natural for me to escape to Afghanistan walking, until I could go to the embassy there which would arrange my situation, and what indicates that I am not a dangerous person, and that I have no secrets, is that I turned myself in to the police without a chase or resistance or anything else. And then what is the relationship between my crossing the border and Al Qaeda, is everyone who crossed the border and that time a person who is loyal to Al Qaeda, those are words that cannot be said, for when Iraq invaded my country Kuwait, and men and

children and women were escaping to Saudi Arabia and Jordan and Iran we did not see anyone arrest them and tell them you are followers of Saddam Hussein.

Knowing that they were crossing over at the border stations secretly and without travel documents, and those countries' authorities would not arrest them but would help them and construct medical tents for them to treat them in, for under those circumstances no one asks for documents because the circumstances are not normal in that part of the world.

And then lets assume the assumption that I made a mistake in this matter-I mean in my crossing the border without identification documents- the known procedure in a situation like this in all countries in the world, is to detain me until the Pakistani Authorities find out my identity and country then send me back to me country not to turn me over to the American Authorities, as a member of Al Qaeda and the Taliban, for this is an unbelievable thing, knowing that they asked me for my personal information and I gave it to them at the first moment, and they said to me we will verify this with the Kuwaiti government so on what basis did they turn me over to you.

Third:

My name is Abd Al Aziz Sayer Al Shammri, and I have no other name but this name, and there is no relationship between me and any person from Al Qaeda, and if a name like mine was found on a list with one of the people, then this would be a likeness in names because there are millions of Arab people that have my same name for my name many others have it as well. And then you haven't found my personal identification with him so you could say you placed these things with him so this indicates a relationship between you two, other than a name similar to mine was found.

And lets assume the name found was my name, well I cannot prevent any person from writing my name in anything they want because that is not under my control, so for example if Hitler wrote my name, I would not go to him, and tell him why did you write my name, as long as I don't have a relationship with him then I am not responsible for his writing. And whoever wants to will write whatever they want I don't have a relationship with anyone, besides that list is nothing but names only nothing else and nothing is known about it, so how can you say it is from Al Qaeda.

That is if this list is not a fake from the interrogators, for any person can type into the computer whatever they wanted any time they wanted , then say this was found on the computer.

And with this, prayers and peace from Allah be upon our prophet Mohammed.

Note: How could I be associated with Al Qaeda and I never traveled to them not even one time, and I did not participate in their meetings and gatherings.

Also if I wanted to fight against the Americans, the matter did not require me travelling to Afghanistan because The Americans are present in Kuwait with me, so if I wanted to fight them, I would have fought them in Kuwait and saved my money that used to travel but since that didnt happen, it is proof that there was no hatred on my part towards the Americans.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 2 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED], Major, USAF
[REDACTED]

Signature

2 OCT 04
Date

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDAL RAZAK QADIR,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-2370 (EGS)

DECLARATION OF DAVID N. COOPER

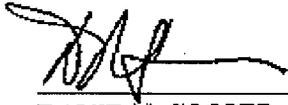
Pursuant to 28 U.S.C. § 1746, I, Lieutenant Colonel David N. Cooper, Judge Advocate, Judge Advocate General's Corps Reserve, United States Air Force, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am a Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdal Razak Qadir that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4 January 2007



DAVID N. COOPER, Lt Col, USAFR
Staff Judge Advocate
DOD, HQ OARDEC
Washington, DC



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 366

20 DEC 2004

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 219**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #219 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

A handwritten signature in black ink, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
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OARDEC (Fwd)
CITF Ft Belvoir

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UNCLASSIFIED

14 Dec 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 219

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #15 of 12 October 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-4 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant. Also, some of the information in exhibits R-6 and R-9 was redacted. It is quite obvious that this information is either an ISN or an individual's name, both of which would have no bearing on an individual detainee's Enemy Combatant status.
- d. The detainee requested two witnesses. The Tribunal President found the witnesses to be relevant to the detainee's classification as an enemy combatant. Both witnesses were detainees at Guantanamo Bay, Cuba. The witnesses were produced and testified at the Tribunal. Although the Tribunal President did not administer the standardized Muslim oath to the two witnesses, they both promised to tell the truth. After the two witnesses had testified, the Tribunal President asked the detainee if he had any other evidence to present to the Tribunal. The detainee stated that he would have requested that his family testify to say that he was a businessman before he left to Afghanistan. Although the detainee was required to request all witnesses before the commencement of the Tribunal, the Tribunal President informed the detainee that the Tribunal would consider the information that the detainee had presented.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 219

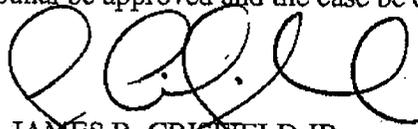
The detainee did not request any other evidence.

e. The Tribunal's decision that detainee # 219 is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED], Lieutenant Commander, U.S. Navy; Member

J. M. MCGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

5 November 2004

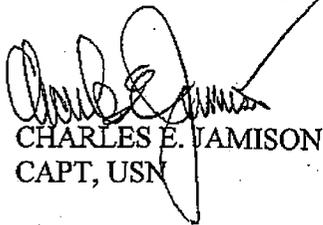
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 219

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED].


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #15

(U) ISN#: 219

- Ref: (a) (U) Convening Order for Tribunal #15 of 12 Oct 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

- Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U//FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U//FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U//FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 23 Oct 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #219 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, the East Turkestan Islamic Movement, which is associated with al Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Col, USAF

Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION****(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: #15
ISN #: 219 **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, the East Turkestan Islamic Movement (ETIM), which is associated with al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee was captured with a weapon in Afghanistan in late 2001 and is a member of the Taliban. The detainee chose to participate in the Tribunal process. He called two witnesses, and requested no documents be produced. He made a sworn verbal statement. The Tribunal President found the requested witness⁴⁶ reasonably available. The detainee, in his verbal statement, denied being a member of ETIM or any other terrorist organization. His witnesses testified that they knew him as a person who did volunteer work and had never witnessed him with a weapon. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-16.
- b. Testimony of the following persons: Detainees #275 and #289.
- c. Sworn statement of the detainee.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
GTMO Detainee #275	reasonably available	yes
GTMO Detainee # 289	reasonably available	yes

The Detainee requested no additional evidence be produced; no rulings were required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 through R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Exhibit R-3 is an excerpt of the Terrorist Organization Reference Guide published by the U.S. Department of Homeland Security. It was helpful in that it familiarized the Tribunal Members with two terrorist organizations that were relevant to the Tribunal's decision-making process. For the most part, however, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. The most significant unclassified evidence considered by the Tribunal was the detainee's sworn testimony and the testimony of his two witnesses. A summarized transcript of the detainee's sworn testimony and that of the witnesses is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that he was not a member of ETIM, did not receive any military training or engage in any military operations against the coalition, and was never a guard for an al Qaida safe house as alleged in the Unclassified Summary of the Evidence. He denied any affiliation with any terrorist organization and claimed that he was just a businessman with many debts who had traveled to Afghanistan in search of new business opportunities. He further claimed that his only involvement with other Uighurs in Afghanistan was an attempt to set up a business, and later to bring food to a group of Uighurs in a camp. Detainee #275 testified that he knew Detainee #219 as a person that delivered food and not as a fighter. Detainee #275 said that he met Detainee #219 when he was in the hospital in Jalalabad. He said that Detainee #219 brought him food and cared for him during his hospital stay. Later, they traveled through the mountains together and were captured together in Pakistan. Detainee #289 testified that he knew Detainee #219 as a person who brought food to the Uigher people in Afghanistan and never saw him carrying a weapon. He also stated that he traveled through the mountains with Detainee #219 and was captured with him in Pakistan.

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The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. He actively participated in the hearing and stated that he understood the procedure.
- c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, the East Turkestan Islamic Movement (ETIM), which is associated with al Qaida. The Tribunal would like to emphasize, however, that while this detainee meets the minimal requirements to be classified as an enemy combatant, he appears to be an excellent candidate for early review by the Administrative Review Board. The Tribunal believes that the classified evidence strongly supports this conclusion.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Col, USAF
Tribunal President

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Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the Detainee answered, "Yes."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process, the Detainee answered, "No."

[As the recorder was reading the unclassified summary the detainee interrupted.]

Detainee: Can I ask a question about what he just said?

Tribunal President: There will be a time shortly for you to provide answers to each.

Detainee: Are you going to read all the accusations first and then I can answer?

Tribunal President: Yes.

[After the Tribunal President spoke about the detainee's request for witnesses and mentioned their names, the detainee interrupted.]

Detainee: I requested some one else.

Tribunal Member: What was the name of the other person?

Detainee: One is Sabet and the other is Abdu Supur.

Tribunal President: I have his number is ISN 275. Do you understand him by his number?

Detainee: Yes.

Tribunal President: He may have another name.

Detainee: Yes. Okay I don't know his secret name.

Tribunal President: The other witness is ISN 289, is that who you asked for?

Detainee: Yes.

Tribunal President: Would you like to provide statements on the unclassified evidence first and then witnesses or would you like the witnesses to provide information first?

Detainee: I feel that I have been waiting; I don't want the witnesses to wait. But I have a question.

Tribunal President: That's fine.

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Detainee: They accuse me of being an enemy combatant. I want you to explain this. Nothing I have said or my actions in the past do not make me an enemy combatant.

Tribunal President: The unclassified summary that was provided to you is the reason for your classification as an enemy combatant. You may want to provide statements or answers on each point.

Detainee: They claim that I am an enemy combatant but I was not captured in a combat zone. I was captured in Pakistan.

Tribunal President: Before you make any more statements, would like to make your statements under oath?

Detainee: Yes taking the oath is not a big deal. We have to tell the truth about everything.

Tribunal President: Recorder please administer the oath.

Tribunal President: Please repeat everything he says for your oath.

[After the Recorder began citing the oath to the Detainee, the detainee interrupted.]

Detainee: It is hard to memorize and say those things. I am not afraid to take the oath. I will take the oath. I believe in god. God is watching me and I am telling you the truth.

Tribunal President: That is fine with us.

Tribunal President: Again, it sounds like you would like to address all the unclassified evidence first. If you would like to proceed you may. Your Personal Representative may assist you.

Detainee: I will answer the first question myself.

Tribunal President: That is fine.

Personal Representative: I think the detainee thinks you are going to ask him questions now.

Tribunal President: Not questions, he may speak.

Personal Representative: But if I may, tell him that we discussed each point and I have his statement and I can read them out loud and then he can add more. Just as we talked about.

Detainee: We did not discuss much about the accusation of me as an enemy combatant.

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Personal Representative: I believe he is stuck on this definition of an enemy combatant.

Tribunal President: I believe he is.

Tribunal Member: Why don't you just let him say what he wants to?

Tribunal President: Yes, you can describe why you don't think you are an enemy combatant.

Personal Representative: Would you like me to read him the definition of an enemy combatant again?

Detainee: The first one said that I belonged to the Islamic Movement.

Translator: Do you want me to explain the definition of an enemy combatant?

Tribunal President: First answer his question. His question was that he belonged to the East Turkestan Islamic Movement. Answer that question, which is yes that is what the government thinks.

Translator: He wants to know what the definition of an enemy combatant is; do you want me to read this to him?

Tribunal President: Actually I will provide that and you can translate.

[The Tribunal President read the definition of an enemy combatant.]

Detainee: Do you have witnesses that say I supported Al-Qaida or the Taliban or say that I fought with the Al-Qaida against the U.S. or coalition forces?

Tribunal President: First piece of evidence. You were part of the East Turkestan Islamic Movement and that group was part of or tied to Al-Qaida.

Detainee: You say the Islamic Movement, which one are you talking about. I have no knowledge about those Islamic Movements. You are telling me they are tied to Al-Qaida.

Tribunal President: The government information says that you admitted to belonging to East Turkestan Islamic Movement.

Detainee: This is the first time I have ever heard of them. I was never asked during interrogations. I never told them I was a member.

Personal Representative: Do you want me to read what you told me about that point?

Detainee: Yes.

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Personal Representative: 3.a.1. (The detainee admits belonging to the East Turkestan Islamic Movement (ETIM).) I do not know about the ETIM. I am not a member of the ETIM. I left Uzbekistan were I was a businessman. I left because my business selling fabrics and animal skins went down and I had a lot of debt to pay. There was no opportunity to pay back my debts, so I left Uzbekistan and went to Afghanistan.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: I have something to say. The East Turkestan Islamic Movement, I had never heard of them and I don't know them. Because I didn't check the organizations background, I don't really care what they do. I was a businessman and looking out for my own interest. That's why I met with them but I didn't care what they did.

Tribunal President: You met with them?

Detainee: Yes.

Personal Representative: In the next statement you talk about them and make this clear. Do you want me to read it to the Tribunal?

Detainee: In number two I didn't talk about that.

Personal Representative: Yes you do, you start to talk about the people.

Detainee: I have forgot. I am not finished with the first one.

Tribunal President: That is fine; tell us what you want about this first point.

Detainee: How can I be a member of an organization that I have never heard of? They accuse me of this. I have never heard of them or was I a member.

Tribunal President: That is why we are here. Do you have any other statements you would like to make on any of the unclassified evidence?

Detainee: Yes.

Tribunal President: What else would you like to tell us?

Personal Representative: Are you ready to move on to number two?

Tribunal President: And to help you remember what number two is I'll read it. The detainee participated in military operations against the coalition.

Detainee: I have a paper in my pocket can you take it out for me?

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Personal Representative: Sure.

Detainee: Can you read number two?

Personal Representative: I will read 3.a.2. first. (ETIM has ties to Al-Qaida and the Taliban.)

Detainee: Which one is b, the second one can you read it for me?

Tribunal President: Okay, he is asking for you to read b.

Personal Representative: Does he want me to skip two, because we spoke about two.

Tribunal President: He asked for b, read him b.

Tribunal President: Repeat your question please.

Detainee: I am confused now.

Tribunal Member: I have a suggestion. Everybody look at your papers. Cross off all the numbers and letters. Ask him if he wants to talk about "ETIM has ties to Al-Qaida and the Taliban" or has he said everything he wanted to say about that?

Detainee: I don't care that the East Turkestan Islamic Movement has ties to Al-Qaida or Taliban or America, it doesn't interest me.

Personal Representative: Now would you like me to repeat what you said in our meeting?

Detainee: Yes.

Personal Representative: 3.a.2. (ETIM has ties to Al-Qaida and the Taliban.) I met with some Uighur people in Afghanistan in Kabul. I was looking for some money to start a carpet or possibly an animal skins business. They told me I would have to work for them to earn a monthly salary. I went to the market to buy food products for the people and also clothing. I did not stay there long, I did not live with those people, I would get money from them, go get what they wanted and leave. I did not know what these people did. I didn't know if they were ETIM or associated with the Al-Qaida or Taliban. I only knew about the Taliban government from being in Afghanistan. But never heard of the Al-Qaida until I got here to Cuba.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: I want to think about it.

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Detainee: Are you all writing down everything?

Tribunal President: So we can remember what you say.

Detainee: Thank you.

Tribunal President: And we record so we can go back and help ourselves understand what you have told us.

Detainee: Thank you.

Detainee: I can't think of anything.

Personal Representative: I recommend that we continue on and address these accusations for the record.

Detainee: Can you wait a minute?

Detainee: We can go to the next one.

Personal Representative: 3.b.1. (The detainee received training in an Al-Qaida sponsored camp two hours North or Northwest of Jalalabad, Afghanistan in 2001.) I was worrying about how to conduct business, making a living. I remember once or twice bringing food to Uighur people to a place outside of Jalalabad. I never stayed there long and never saw any military training.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: Are they saying that I was training at the camp provided by Al-Qaida?

Tribunal President: That's what this information says you did. You were trained and I am interpreting it that you received military training in a camp.

Detainee: I didn't know this place. I just brought the food for them once or twice. I *never trained there*. If I wanted the training I would get it to fight against the Chinese Government. America has never hurt my family or my nationality, why would I train to go against the U.S. Government? I had no plan for my family or my nation to fight against Chinese Government. The only thing on my mind was the business. I had no plan to train. Throughout history the American Government never hurt my country. We had heard about America but just the name. I never knew what they looked like. The first time I saw an American was in Kandahar in prison. They never did anything bad to me. How could I take training to go against those people?

Tribunal President: The next part is about travel.

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Personal Representative: 3.b.2. (The detainee traveled to the mountain training camp in Tora Bora and fled when U.S. forces began bombing that location.) I was in Jalalabad when the fighting began. I felt I should go with the Uighur people to the mountains. A different place from where I was bringing food. It was not a training camp we stayed in old houses. The bombing began either before or after we arrived, then I left the mountains. I didn't know what Tora Bora was or meant. I left the mountains to go to Pakistan. I passed the border and the people treated me nice and fed me. They told me they would take me to the city. We left in the middle of the night and traveled to some place where there were different people. There was a big block door and I was told I would be interrogated. When they interrogated me I was afraid I would be sent back to Turkistan where I owed money. So I told them I was from Afghanistan. They took me to another place, a prison in Pakistan for fifteen days. Different people other than Pakistanis took my picture and asked me questions. They then took me to another cell with other Arabs and all of us were turned over to the Americans.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: Are all the mountains in Afghanistan called Tora Bora?

Tribunal President: I don't know. I think Tora Bora is a place, not all mountains, a part of the mountains.

Detainee: If they call all the mountains in Afghanistan Tora Bora, I have no objections to that statement because I just walked through the mountains to Pakistan. If a specific mountain is called Tora Bora, then I didn't know this. Is all the mountains called Tora Bora or just part of the mountains?

Tribunal President: Traveling is not a concern of ours. Going to a military training camp in Afghanistan is a concern. And your previous statement was, you never went to a camp, is that correct?

Detainee: Yes.

Personal Representative: 3.b.3. (The detainee carried a weapon while guarding an Al-Qaida safe house in Jalalabad.)

Detainee: Do you have a witness or proof?

Tribunal President: Not now. Not during this session. All we know is this [referring to the Unclassified Summary of the Evidence].

Personal Representative: He said this point is not true. He never carried a weapon or guarded a house in Jalalabad. I was trying to do business in Jalalabad. I never guarded a house or received weapons training.

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Detainee: Shouldn't a guard be fully trained and know how to use the weapons?

Tribunal president: That would make sense to us.

Detainee: I was just a businessman, how could I be qualified as a guard? If I wanted to be a guard or guarding a house, I would want to know who is in there. I didn't guard any house.

Tribunal President: Does the Personal Representative have any additional information?

Personal Representative: Sir that is all he covered with me.

Tribunal Member: Your Personal Representative told us a lot of information. Was it accurate and do you want us to consider it?

Detainee: Yes.

Detainee: About the first accusation were they accused me of being an enemy combatant. What kind of evidence do you have?

Tribunal President: I would like you to review your notes to see if we have answered all your questions so far.

Detainee: When you accuse me as an enemy combatant. Do you have any evidence? And I have a question for you?

Tribunal President: We have provided you all the evidence that we can at this time. We are here to look at all the evidence and determine that. You have all the information you may see now. We will see more information later but you are not permitted to see it. Do you understand?

Detainee: Why can't I be at that session?

Tribunal President: Because of our national security and our authority does not permit us to provide that to you.

Detainee: If this is a court, I should be able to defend myself. I am innocent.

Tribunal President: This is not a criminal court. This is an administrative government review. We are independent, we are checking to ensure the information supports the government's decision that you are an enemy combatant. That is our job. Have you concluded or finished providing us the information you wanted on the unclassified summary?

Detainee: There is something I would like to talk about.

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Tribunal President: Okay. I would like to remind you that you have called two witnesses to support what you told us before.

Detainee: You accused me of being an enemy combatant. Did you get me from a combat zone or from another country, Pakistan?

Tribunal President: It doesn't matter in our definition. Location of the capture is not part of our definition.

Detainee: There should be a connection between location and capture.

Tribunal Member: To help you understand a little bit more. Before we walked in here today we didn't know anything about your case. The government says that you are an enemy combatant. We think you are going to say you are not an enemy combatant. The Recorder gives us evidence and you give us evidence. We will look at all the evidence and decide whether you should be an enemy combatant or not. We might look at the evidence and say you were caught in Pakistan and therefore you may not be an enemy combatant. Or we might say that you are an enemy combatant. We don't know yet because we haven't looked at all the evidence. So, the best thing you can do this morning is tell us why you feel you are not an enemy combatant. And then we will look at everything and make a decision.

Detainee: I am asking this because did you catch me in a combat zone or in Pakistan. I am defending myself.

Tribunal President: We will consider that.

Detainee: You didn't catch me in a combat zone in Afghanistan. When I was captured I didn't have any weapons or any medal or wood that could be used as a weapon.

Tribunal President: We will consider that.

Detainee: When you captured me I didn't have any identification as a soldier. The Pakistan soldiers captured me and turned me over to you. American soldiers did not capture me, Pakistani soldiers did. I do not have a plan to fight against the U.S. or your coalition forces. The reason I left Afghanistan has nothing to do with the U.S. You said I admitted that I was a member of the East Turkestan Islamic Movement. I have never been a member of any organization. The Uighur people I met were not members of the East Turkestan Islamic Movement. There were only a few of them and I never heard them talk about being a part of any organization. I would have refused to be a part of the organization because I have a lot of debts to pay.

You say that I participated in operations against the U.S. and their coalition forces. I was just a small businessman. How could I have done this? America never hurt me, why would I join against them. If I wanted military training it would have been to fight the

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Chinese Government. There have never been problems between the Americans and the Uighurs we support America.

You say that I was guarding an Al-Qaida house. What is Al-Qaida? Are they a government? I had never heard of them until I was interrogated. I didn't guard their house I am not qualified. I have never been trained. I don't have the same culture, as Al-Qaida and I don't come from their country. They are strangers to me; I wouldn't guard their house.

They say I went to the Tora Bora Mountains to a camp and left when the bombing started. It is true I went to some mountains but I didn't know what they were called. The place I went to was called Urhurl. The Uighurs stayed there. I only heard the name Tora Bora from you.

Tribunal President: Does that conclude your statement?

Detainee: Probably.

Tribunal President: Personal Representative do you have any questions for the Detainee?

Personal Representative: No sir.

Tribunal President: Recorder do you have any questions for the Detainee?

Recorder: No sir.

Tribunal President: Does the board have any questions for the Detainee?

Tribunal Members: We would like to hear what the witnesses have to say first.

Tribunal President: At this time we will take a short recess to bring in the first witness, number 275 first.

[GTMO Detainee #275 was brought into the Tribunal Room]

Tribunal President: Before we begin the witness is asked to affirm that what he says will be the truth, would you take an oath that you will tell the truth?

Witness 275: The information I am given will apply to his case?

Tribunal President: Yes.

Witness 275: What kind of issues?

Tribunal President: The questions will be asked shortly. Will you promise to tell the truth if we ask you a question?

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Witness 275: Yes.

Tribunal President: Personal Representative, why has the Detainee asked for this witness?

Personal Representative: The Detainee asked for this witness so that he could give a statement that he was not a fighter and that he brought food to the Uighur people.

Witness 275: Yes, I will testify that he was only delivering food.

Tribunal President: Anything else Personal Representative?

Personal Representative: Yes sir when I met with the witness he gave me a statement. Can I ask the witness if I can read it aloud and he can confirm that he said that?

Witness 275: Will he read it for me and then I can verify that it is true or not?

Tribunal President: That is correct.

Witness 275: Yes.

Personal Representative: The witness said he met 219 in a hospital in Jalalabad. They introduced him to me because he was Uighur. He brought me food and brought me to the bathroom and anything I needed when I was sick. Before my hospitalization I did not know him nor I had never seen him.

Personal Representative: Would he like to add more to this statement?

Witness 275: If you ask me questions about his case I will answer. Then if you give me permission I will talk about our cases.

Tribunal President: At this time we are only concerned with 219.

Witness 275: Okay

Tribunal President: Any further comments Personal Representative?

Personal Representative: No sir.

Witness 275: If I don't get permission for that then I have no more.

Tribunal President: Okay. I now want to ask the Detainee if he has any questions for the witness:

Detainee: No.

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Tribunal President: Recorder do you have any questions for the witness?

Recorder: No sir.

Tribunal President: Does the Tribunal have any questions for the witness?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Just so I have this straight, you were sick and the detainee was working at the hospital helping you?

A. He was not an employee for the hospital.

Q. Okay. I was confused about who was sick.

A. I was sick.

Q. Was the time you were in the hospital the only time you had contact with the Detainee?

A. Yes.

Q. You never saw him again until you were here?

A. Until we were captured.

Translator: I would like to explain your question to him.

Tribunal Member: Yes.

A. We left the hospital together and came here together also.

Q. When were you in the hospital? Was it before or after you were detained?

A. Before I was detained.

Q. How long were you in the hospital with the help from the Detainee?

A. About a month.

Q. Did you travel to the mountains together?

A. Yes.

Q. And then into Pakistan?

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A. Yes.

Q. And then you were captured together in Pakistan?

A. Yes, at the same time.

Q. When you were traveling through the mountains on your way to Pakistan, can you tell me what you were doing? Were you just getting away from the fighting or caring for others? What were you doing?

A. We just walked together to Pakistan.

Tribunal President: We will take a short recess to bring in the next witness.

[GTMO Detainee#289 was brought into the Tribunal Room]

Tribunal President: I would like to enter for the record that this witness is known as 289. Is that correct?

Witness 289: Yes.

Tribunal President: I want to confirm with the Detainee that this is the correct witness that he requested.

Detainee: Yes.

Tribunal President: I want to ask the witness if he will take an oath that he will tell the truth?

Witness 289: What do you want me to take an oath about?

Tribunal President: The Detainee wants you to provide testimony or a statement to support his claim.

Witness 289: I will listen and if it is necessary for me to take an oath I will take it.

Tribunal President: We do require you to promise to tell the truth.

Witness 289: I will tell the truth.

Tribunal President: Personal Representative asks the witness the questions.

Personal Representative: The Detainee asked for this witness so that he could give a statement that he was not a fighter and that he brought food to the Uighur people.

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Witness 289: Yes.

Personal Representative: During our meeting the witness did not want to give a specific statement to me but said he would be prepared to answer questions.

Witness 289: That is correct I told him I would answer the questions.

Tribunal President: Detainee do you have any questions for the witness?

Detainee: No.

Tribunal President: Recorder do you have any questions for the witness?

Recorder: No sir.

Tribunal President: Does the Tribunal have any questions for the witness?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Where did you meet the Detainee?

A. He brought food twice to the place where the Uighur people were staying.

Q. Was this in Afghanistan?

A. Yes.

Q. Was this a Uighur camp or village? What sort of place were they staying?

A. The area belonged to some village. It is like a farm area.

Q. Were those two times the only times you saw Detainee 219?

A. Yes.

Q. Did you ever see him with a weapon?

A. No.

Q. He only had food when you saw him?

A. Yes, food.

Q. Did you travel with the Detainee to the mountains?

A. When?

Q. Anytime?

A. When we went to Pakistan we walked through mountains.

Q. So you were arrested together in Pakistan?

A. Yes.

Tribunal President: We are recessed to have the witness removed.

Tribunal President: Personal Representative do you have any question for the Detainee?

Personal Representative: No sir.

Tribunal President: Recorder do you have any questions for the Detainee?

Recorder: No sir.

Tribunal President: Does the board have any questions for the Detainee?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Do you know what job the two witnesses did while in Afghanistan?

A. No, I don't know.

Q. Did you ever see either witness with a weapon?

A. No.

Tribunal President: Do you have any other evidence to present to this Tribunal?

Detainee: If it were permitted I would have called my family and requested them to be witnesses.

Tribunal President: I permit witnesses to this Tribunal that have information concerning this evidence. So if your family was with you in Afghanistan I would have permitted it.

Detainee: The reason I asked my family to be witnesses was because they could have proved I was a businessman and have a lot of debts. My parents are probably suffering now because of my debts.

Tribunal President: I appreciate your reasons for leaving your country but this Tribunal is concerned about a different matter.

UNCLASSIFIED / FOUO

Detainee: Every issue is different. But everything starts with the end and is always connected. My parents know why they sent me out. Did they send me to fight or to do business, they know why.

Tribunal President: We will consider that.

[While the Tribunal President was reading the decision instructions the Detainee commented.]

Detainee: I do not want to go back to my country.

Tribunal President: We understand that. Arrangements will be made to find a place where you can go safely if you are determined not to be an enemy combatant.

Detainee: If they say I am an enemy combatant will they look at my case further?

Tribunal President: Yes. I have more instructions to provide.

Detainee: How can you determine me to be a threat?

Tribunal President: That is a question for the next board.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Col, USAF

Tribunal President

ISN #219
Enclosure (3)
Page 16 of 16

DETAINEE ELECTION FORM

Date: 16-Oct-04

Start Time: 0800

End Time: 1000

ISN#: 219

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? UIGHUR

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee has elected to participate in Tribunals. He has two-witness request:

#1. Adusupur. ISN 275 [REDACTED]
#2 Sabet. ISN 289 [REDACTED]

They both can testify that all he did was bring food out to the Uighur people and was not a fighter.

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (05 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – RAZAK, Abdul

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is an Enemy Combatant.
 - a. The detainee is an Enemy Combatant:
 1. The detainee admits belonging to the East Turkestan Islamic Movement (ETIM).
 2. ETIM has ties to al Qaida and the Taliban.
 - b. The detainee participated in military operations against the coalition.
 1. The detainee received training in an al Qaida sponsored camp two hours North or Northwest of Jalabat, Afghanistan in 2001.
 2. The detainee traveled to the mountain training camp in Tora Bora and fled when US forces began bombing that location.
 3. The Detainee carried a weapon while guarding an al Qaida safe house in Jalabat.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit: R-1

1433
106/1

Memorandum

UNCLASSIFIED



To : Department of Defense Date 09/15/2004
Office of Administrative Review
for Detained Enemy Combatants,
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division,
Office of General Counsel,
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 219 have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 10/28/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

UNCLASSIFIED

Exhibit 12

18 21434

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/15/2004

If you need additional assistance, please contact
Assistant General Counsel [REDACTED],
[REDACTED] or Intelligence Analyst [REDACTED]

UNCLASSIFIED

2435



**U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Border Patrol**

Terrorist Organization Reference Guide

January 2004

Exhibit 23

1436

U. S. BUREAU OF CUSTOMS AND BORDER PROTECTION

Purpose: The purpose of the Terrorist Organization Reference Guide is to provide the Field with a who's who in terrorism. The main players and organizations are identified so the CBP Officer and BP Agent can associate what terror groups are from what countries, in order to better screen and identify potential terrorists.

Limitations (Gaps in Data): This Guide is based upon the information available to this office at the time that the report was prepared.

NOTE: This report is based upon information obtained from various open sources. No classified information was used in the preparation of this report.

For corrections, amendments, and suggestions, notify:

Office of Border Patrol
Bldg. 11624 SSG Sims Road,
Biggs AAF,
El Paso, TX 79908
Mailing Address: Attn. BPSCC P.O. Box 6017
El Paso, Texas 79906
POC Kent D. Thew
Tel: (915) 724-3218

DA375

External Aid

Receives financial, training, weapons, explosives, political, diplomatic, and organizational aid from Iran and diplomatic, political, and logistic support from Syria.

13. Islamic Movement of Uzbekistan (IMU)

Description

Coalition of Islamic militants from Uzbekistan and other Central Asian states opposed to Uzbekistani President Islam Karimov's secular regime. Although the IMU's primary goal remains to overthrow Karimov and establish an Islamic state in Uzbekistan, IMU political and ideological leader Tohir Yoldashev is working to rebuild the organization and appears to have widened the IMU's targets to include all those he perceives as fighting Islam. The IMU generally has been unable to operate in Uzbekistan and thus has been more active in Kyrgystan and Tajikistan.

Activities

The IMU primarily targeted Uzbekistani interests before October 2001 and is believed to have been responsible for five car bombs in Tashkent in February 1999. Militants also took foreigners hostage in 1999 and 2000, including four US citizens who were mountain climbing in August 2000, and four Japanese geologists and eight Kyrgyz soldiers in August 1999. Even though the IMU's rhetoric and ultimate goals may have been focused on Uzbekistan, it was generally more active in Kyrgystan and Tajikistan. In Operation Enduring Freedom, the counterterrorism coalition has captured, killed, and dispersed many of the IMU's militants who were fighting with the Taliban in Afghanistan and severely degraded the movement's ability to attack Uzbekistani or Coalition interests in the near term. IMU military leader Juma Namangani was killed during an air strike in Afghanistan in November 2001; Yoldashev remains at large.

Strength

Probably fewer than 1,000 militants.

Location/Area of Operation

Militants are scattered throughout South Asia, Tajikistan, and Iran. Area of operations includes Afghanistan, Iran, Kyrgyzstan, Pakistan, Tajikistan, and Uzbekistan.

External Aid

Support from other Islamic extremist groups and patrons in the Middle East and Central and South Asia.

46. Continuity Irish Republican Army (CIRA)

Description

Terrorist splinter group formed in 1994 as the clandestine armed wing of Republican Sinn Fein (RSF), which split from Sinn Fein in 1986. "Continuity" refers to the group's belief that it is carrying on the original IRA goal of forcing the British out of Northern Ireland. Cooperates with the larger Real IRA.

Activities

CIRA has been active in Belfast and the border areas of Northern Ireland where it has carried out bombings, assassinations, kidnappings, hijackings, extortions, and robberies. On occasion, it has provided advance warning to police of its attacks. Targets include British military, Northern Ireland security targets, and loyalist paramilitary groups. Unlike the Provisional IRA, CIRA is not observing a cease-fire. CIRA continued its bombing campaign in 2002 with an explosion at a Belfast police training college in April and a bombing in July at the estate of a Policing Board member; other CIRA bombing attempts in the center of Belfast were thwarted by police.

Strength

Fewer than 50 hard-core activists. Eleven CIRA members have been convicted of criminal charges and others are awaiting trial. Police counterterrorist operations have reduced the group's strength, but CIRA has been able to reconstitute its membership through active recruiting efforts.

Location/Area of Operation

Northern Ireland, Irish Republic. Does not have an established presence on the UK mainland.

External Aid

Suspected of receiving funds and arms from sympathizers in the United States. May have acquired arms and materiel from the Balkans in cooperation with the Real IRA.

47. Eastern Turkistan Islamic Movement (ETIM)

Description

The Eastern Turkistan Islamic Movement (ETIM), a small Islamic extremist group based in China's western Xinjiang Province, is one of the most militant of the ethnic Uighur separatist groups pursuing an independent "Eastern Turkistan," which would include Turkey, Kazakhstan, Kyrgyzstan, Pakistan, Afghanistan, and Xinjiang. ETIM and other

overlapping militant Uighur groups are linked to the international mujahidin movement - and to a limited degree al-Qaeda - beginning with the participation of ethnic Uighur mujahidin in the Soviet/Afghan war.

Activities

US and Chinese Government information suggests ETIM was responsible for terrorist acts inside and outside China. Most recently, in May 2002, two ETIM members were deported to China from Kyrgyzstan for plotting to attack the US Embassy in Kyrgyzstan as well as other US interests abroad.

Strength

Unknown. Only a small minority of ethnic Uighurs supports the Xinjiang independence movement or the formation of an East Turkistan.

Location/Area of Operation

Xinjiang Province and neighboring countries in the region.

External Aid

ETIM is suspected of having received training and financial assistance from al-Qaeda.

48. First of October Antifascist Resistance Group (GRAPO)

a.k.a. Grupo de Resistencia Anti-Fascista Primero de Octubre

Description

Formed in 1975 as the armed wing of the illegal Communist Party of Spain during the Franco era. Advocates the overthrow of the Spanish Government and its replacement with a Marxist-Leninist regime. GRAPO is vehemently anti-US, seeks the removal of all US military forces from Spanish territory, and has conducted and attempted several attacks against US targets since 1977. The group issued a communique following the 11 September attacks in the United States, expressing its satisfaction that "symbols of Primero de Octubre imperialist power" were decimated and affirming that "the war" has only just begun.

Activities

GRAPO did not mount a successful terrorist attack in 2002. GRAPO has killed more than 90 persons and injured more than 200. The group's operations traditionally have been designed to cause material damage and gain publicity rather than inflict casualties, but the terrorists have conducted lethal bombings and close-range

Personal Representative Review of the Record of Proceedings

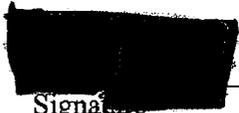
I acknowledge that on 2nd October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #219.

I have no comments.

My comments are attached.

 LC02, AC, USAF
Name

2nd OCT04
Date

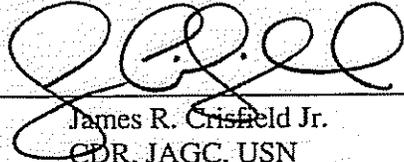

Signature

ISN #219
Enclosure (5)

order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 15 Sep 04


James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 59
20 August 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. MCGARRAH
RADM, CEC, USNR

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

19 Aug 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004Encl: (1) Appointing Order for Tribunal #2 of 2 August 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:
 - a. The detainee was properly notified of the Tribunal process and voluntarily elected not to participate in Tribunal proceedings.
 - b. The Tribunal was properly convened and constituted by enclosure (1).
 - c. The Tribunal complied with all provisions of references (a) and (b). Note that exhibit R-2 lists six Recorder exhibits whereas seven Recorder exhibits were actually admitted in the Tribunal.
 - d. The detainee made no requests for witnesses or other evidence.
 - e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
 - f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

2 August 2004

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #2

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Marine Corps; President

[REDACTED], Lieutenant Colonel, U.S. Army; Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
U.S. Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

12 August 2004

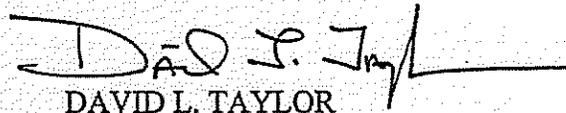
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) (3) and (4).

(U) TRIBUNAL PANEL: #2

(U) ISN#: [REDACTED]

Ref: (a) Convening Order for Tribunal #2 of 2 August 2004 (U)
(b) CSRT Implementation Directive of 29 July 2004 (U)
(c) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) Unclassified Summary of Basis For Tribunal Decision (U)
(2) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) Summary of Detainee/Witness Testimony (U) **(Not Required as Detainee declined to make a statement)**
(4) Copies of Documentary Evidence Presented (S//NF)
(5) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 2 August 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) The Tribunal has determined, by a preponderance of the evidence, that Detainee # [REDACTED] is designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee willingly affiliated himself with the Taliban, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

Colonel, U.S. Marine Corps
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #2
ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant as he has willingly affiliated himself with the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee was a Taliban fighter and participated in military operations against the United States or its coalition partners (here, the Northern Alliance). The detainee chose not to participate in the Tribunal process.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions: Exhibits D-a, R-1 through R-11.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses, nor did he request additional evidence be produced; therefore, no additional rulings were required.

5. Discussion of Unclassified Evidence

The Tribunal found the following unclassified evidence persuasive in making its determinations: None.

The Tribunal found the following unclassified evidence unpersuasive in making its determinations: Exhibit R-1 was the only unclassified exhibit presented to the Tribunal. Although it asserts that the United States has such information to support the allegations in paragraph 2, above, no supporting unclassified information was submitted for consideration. Therefore, standing alone, Exhibit R-1 was insufficiently persuasive for

ISN # [REDACTED]
Enclosure (1)
Page 1 of 2

the Tribunal to make a judgment as to whether ISN # [REDACTED] has been properly classified as an enemy combatant.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary.

b. As related to the Tribunal by the Personal Representative, the Detainee understood, but chose not to participate in, the Tribunal process, as indicated in Exhibit D-a.

c. The detainee is properly classified as an enemy combatant because he willingly affiliated himself with the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[REDACTED]

Colonel, U.S. Marine Corps
Tribunal President

Detainee Election Form

Date/Time: 31 JUL 04 / 18:50 ^{18:30 to}

ISN#: 

Personal Representative: 
[Name/Rank]

Translator Required? _____ Language? _____

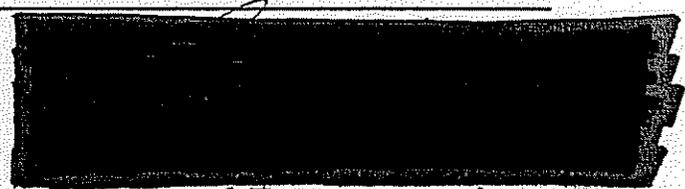
CSRT Procedures Read to Detainee or Written Copy Read by Detainee? _____

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee acknowledged reading
Tribunal notice. He declined further
comment.



Personal Representative

Combatant Status Review Board

TO: Personal Representative

FROM: Recorder

Subject: Summary of Evidence for Combatant Status Review Tribunal -- AL AJMI, Abdallah Salih Ali

29 JUL 03 112

1. Under the provisions of the Department of the Navy Memorandum, dated 16 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he was a fighter for the Taliban and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is a Taliban fighter:
 1. The detainee went AWOL from the Kuwaiti military in order to travel to Afghanistan to participate in the Jihad.
 2. The detainee was issued an AK-47, ammunition and hand grenades by the Taliban.
 - b. The detainee participated in military operations against the coalition.
 1. The detainee admitted he was in Afghanistan fighting with the Taliban in the Bagram area.
 2. The detainee was placed in a defensive position by the Taliban in order to block the Northern Alliance.
 3. The detainee admitted spending eight months on the front line at the Aiubi Center, AF.
 4. The detainee admitted engaging in two or three fire fights with the Northern Alliance.
 5. The detainee retreated to the Tora Bora region of AF and was later captured as he attempted to escape to Pakistan.
4. The detainee has the opportunity to contest his determination as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

EXHIBIT B1

Personal Representative Review of the Record of Proceedings

I acknowledge that on 10 August 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name
[REDACTED]
Signature

11 AUG 04
Date

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANWAR HAMDAN MUHAMMED AL-NUR,)
)
)
Petitioner,)
)
v.)
)
GEORGE W. BUSH, *et al.*,)
)
Respondents.)
_____)

Civil Action No. 05-2384 (RWR)

DECLARATION OF TERESA A. McPALMER

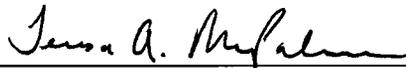
Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Anwar Hamdan Muhammed al-Nur that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 24 May 2006



Teresa A. McPalmer
CDR, JAGC, U. S. Navy



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 862

29 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 226

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # 226 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).

2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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1455

19 Jan 05

MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 226

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal # 21 of 16 November 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process and, as evidenced by his non-cooperation, declined to participate. No evidence suggested that detainee failed to understand the Tribunal process or that he lacked the mental or physical ability to participate in the Tribunal process.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-4 through R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee did not request that any witnesses or evidence be produced.

e. The Tribunal's decision that detainee # 226 is properly classified as an enemy combatant was unanimous.

2. The proceedings and decision of the Tribunal as reflected in enclosure (2) are legally sufficient and no corrective action is required.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 226

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



BREE A. ERMENTROUT
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

16 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #21

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member

[REDACTED], Major, U.S. Air Force Reserve; Member (JAG)

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (3).

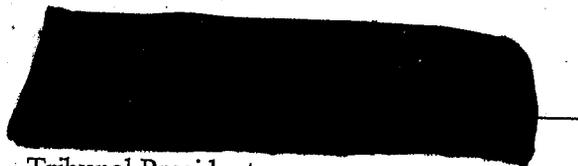
(U) TRIBUNAL PANEL: #21

(U) ISN#: 226

Ref: (a) (U) Convening Order for Tribunal #21 of 16 November 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Copies of Documentary Evidence Presented (S/NF)
(4) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 3 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #226 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee was a part of, or supported al Qaida. This evidence as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #21
ISN #: _____ 226

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was a part of, or supported al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal conducted the proceeding on 3 December 2004. The Recorder presented Exhibit R-1 through R-3 during the unclassified portion of the Tribunal. The Unclassified Summary of Evidence, Exhibit R-1, indicates, among other things, that the detainee: traveled from Saudi Arabia through Jordan, Syria, and Iran to Herat, Afghanistan then to Kandahar and Kabul, Afghanistan; name was found on a list of captured al Qaida members captured from a senior al Qaida member's computer hard drive; name and other information was found on the hard drive of a computer confiscated from members of the suspected al Qaida cell involved in the October 2002 attack on U.S. Marines on Faylaka Island; name and contents of trust account was found on list of al Qaida Mujahidin recovered from computer media seized during a raid on an al Qaida safe house in Rawalpindi, Pakistan; was captured with other Arabs by Pakistani Security forces in November 2001 crossing the border from Afghanistan. The Recorder called no witnesses.

The detainee did not attend the Tribunal hearing and was unresponsive and uncooperative during the interview process. The Guantanamo Personal Representative indicated that, according to JDIMS, the detainee spoke fluent English and informed the detainee that his unresponsiveness was deemed a declination to participate. The detainee's decision is reflected on the Detainee Election Form (Exhibit D-a) and Guantanamo Personal Representative affidavit (Exhibit D-b). The Personal Representative presented no evidence and called no witnesses.

During the classified portion of the Tribunal hearing, the Recorder presented Exhibits R-4 through R-29. The Personal Representative presented no classified exhibits.

The classified exhibits support the assertions on the Unclassified Summary of Evidence and the Tribunal found the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-29, D-a, and D-b.
- b. Testimony of the following persons: None.
- c. Statement of the detainee: None.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The detainee requested no witnesses.

The detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Recorder offered Exhibit R-1 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 is the FBI redaction letter and provided no useable evidence. Exhibit R-3 was the President's Executive Order 13224, dated 23 September 2001. Because there was no other unclassified evidence for the Tribunal to consider, the Tribunal had to look to the classified exhibits to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT Legal Advisor

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee chose not to participate in the Tribunal proceeding. No evidence was produced that caused the Tribunal to question whether the detainee was mentally and

physically capable of participating in the proceeding, had he wanted to do so. Accordingly, no medical or mental health evaluation was requested or deemed necessary.

b. The Personal Representative informed the Tribunal that the detainee understood the Tribunal process but chose not to participate, as indicated in Exhibit D-a and Exhibit D-b.

c. The detainee is properly classified as an enemy combatant because he was a part of, or supporting al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Air Force
Tribunal President

DETAINEE ELECTION FORM

Date: 26 Nov 2004

Start Time: 0925

End Time: 0942

ISN#: 226

Personal Representative: [REDACTED] MAJOR, USAF
(Name/Rank)

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee didn't say a word the entire interview. Did not nod or indicate in any way his response to yes or no questions. Remained unresponsive and looked at the floor with his head down the entire interview. I explained the entire CSRT process and read him the unclassified summary. I asked if he wanted to participate in the tribunal process and appear before the tribunal (no response). I asked if he wanted to submit a written statement to the tribunal (no response). I asked if he wanted to call any witnesses who could offer testimony on his behalf (no response). After each question (above) I told him that I assume by his absence that his answer is no. I explained that the tribunal would still be held in his absence. JDIMS shows this detainee speaking fluent English and Arabic. FYI: I did use an Arabic interpreter.

Personal Representative: [REDACTED]

An initial interview was held with detainee Anwar Hamdan Muhammed Al Nur (ISN 226) on 26 Nov 2004.

[REDACTED] The detainee was unresponsive and uncooperative in the interview.

[REDACTED] It was determined that the detainee spoke the language of the linguist.

[REDACTED] The detainee was reminded that the U.S. government established a Combat Status Review Tribunal to review his designation as an enemy combatant.

[REDACTED] The detainee was advised that I am not an attorney nor his advocate, but will assist him in the CSRT process if he chooses to participate.

[REDACTED] The detainee was advised that a tribunal of military officers will review his enemy combatant designation even if he chooses not to participate.

[REDACTED] The detainee was advised that he will have an opportunity to speak on his own behalf and call witnesses and ask questions of the witnesses and tribunal members.

[REDACTED] The detainee was advised that he may choose not to appear at the Tribunal hearing or participate in the CSRT process, but that I could present information on his behalf.

[REDACTED] Since the detainee was unresponsive and uncooperative in the interview, I assume that he chooses not to participate in the CSRT process and does not want me to present information on his behalf.

I affirm that the information above is complete and accurate to the best of my knowledge.

[REDACTED]
[REDACTED], Major, USAF

26 Nov 2004
Date

Exhibit 1464-b

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (16 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL NUR, Anwar Hamdan Muhammed

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is a member of al Qaida and supported al Qaida and the Taliban in military operations against the United States and its coalition partners.
 - a. The detainee is a member of al Qaida and supported al Qaida and the Taliban in military operations against the United States and its coalition partners:
 1. During November 2001, the detainee traveled from Saudi Arabia through Jordan, Syria, and Iran (Tehran and Mashhad) to Herat, Afghanistan, then on to Kandahar and Kabul.
 2. The detainee's name was found on a file in a computer used by suspected al Qaida members listing seventy-eight associates incarcerated in Pakistan.
 3. The detainee's name and other information was found in a 02 September 2002 "chat session" found on the hard drive of a computer confiscated from members of the suspected al Qaida cell involved in the October 2002 attack on U.S. Marines on Faylaka Island.
 4. The detainee's name, hometown, and mobile phone number was included in a list of eighty-four Mujahidin fighters captured as they crossed the border into Nangarhar Province, by the Pakistani Government.
 5. The detainee's name, and other personal information, was found on a hard drive that was associated with Khalid Shaykh Muhammad, a known high-level al Qaida operative, and which was seized during joint raids with the Pakistani Inter-Services Intelligence Directorate on 01 March 2003, in Pakistan.
 6. The detainee worked for the NGO al Wafa in Afghanistan.

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7. The al Wafa Humanitarian Organization has been designated as an organization that assists in, sponsors, or provides financial, material, or technological support for, or financial or other services to, or in support of, acts of terrorism.

8. The detainee's name was found on a list of al Qaida Mujahidin and the contents of his "trust" account was found on files recovered from various computer media seized during raids on al Qaida safehouses in Rawalpindi, on 01 March 2003 and Karachi on 11 September 2002.

9. The detainee, along with other Arabs he was traveling with, was captured by the Pakistani Military in November 2001 while trying to cross into Pakistan from Afghanistan.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum

Unclassified
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To : Department of Defense Date 11/15/2004
 Office of Administrative Review
 for Detained Enemy Combatants
 Capt. Charles Jamison, OIC, CSRT

From : FBI GTMO
 Counterterrorism Division
 Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
 NATIONAL SECURITY INFORMATION
 [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 226 have been redacted by the FBI and provided to the OARDEC:

- FD-302 dated 04/11/02
- FD-302 dated 06/28/02
- FD-302 dated 04/28/03

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Exhibit R-2 *R2*

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Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 11/15/2004

If you need additional assistance, please contact Asst.
Gen. Counsel [REDACTED]

[REDACTED] or Intelligence Analyst (IA)

[REDACTED] IA [REDACTED]

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23 September 2001

Executive Order

Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein, and UNSCR 1363 of July 30, 2001, establishing a mechanism to monitor the implementation of UNSCR 1333,

I, GEORGE W. BUSH, President of the United States of America, find that grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and the Pentagon committed on September 11, 2001, acts recognized and condemned in UNSCR 1368 of September 12, 2001, and UNSCR 1269 of October 19, 1999, and the continuing and immediate threat of further attacks on United States nationals or the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and in furtherance of my proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, hereby declare a national emergency to deal with that threat.

I also find that because of the pervasiveness and expansiveness of the financial foundation of foreign terrorists, financial sanctions may be appropriate for those foreign persons that support or otherwise associate with these foreign terrorists.

I also find that a need exists for further consultation and cooperation with, and sharing of information by, United States and foreign financial institutions as an additional tool to enable the United States to combat the financing of terrorism.

I hereby order:

Section 1. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States or that hereafter come within the United States, or that hereafter come within the possession or control of United States persons are blocked:

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- (a) foreign persons listed in the Annex to this order;
- (b) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States;
- (c) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order;
- (d) except as provided in section 5 of this order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General;
 - (i) to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to this order or determined to be subject to this order; or
 - (ii) to be otherwise associated with those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order.

Sec. 2. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

3.a.7

- (a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the Annex to this order or determined to be subject to this order;
- (b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

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(c) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "terrorism" means an activity that --

(i) involves a violent act or an act dangerous to human life, property, or infrastructure; and

(ii) appears to be intended --

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by United States persons to persons determined to be subject to this order would seriously impair my ability to deal with the national emergency declared in this order, and would endanger Armed Forces of the United States that are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances, and hereby prohibit such donations as provided by section 1 of this order.

Furthermore, I hereby determine that the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106-387) shall not affect the imposition or the continuation of the imposition of any unilateral agricultural sanction or unilateral medical sanction on any person determined to be subject to this order because imminent involvement of the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

Sec. 5. With respect to those persons designated pursuant to subsection 1(d) of this order, the Secretary of the Treasury, in the exercise of his discretion and in

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consultation with the Secretary of State and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under IEEPA and UNPA if the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.

Sec. 6. The Secretary of State, the Secretary of the Treasury, and other appropriate agencies shall make all relevant efforts to cooperate and coordinate with other countries, including through technical assistance, as well as bilateral and multilateral agreements and arrangements, to achieve the objectives of this order, including the prevention and suppression of acts of terrorism, the denial of financing and financial services to terrorists and terrorist organizations, and the sharing of intelligence about funding activities in support of terrorism.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA as may be necessary to carry out the purposes of this order.

The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government.

All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 8. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 9. Nothing contained in this order is intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees or any other person.

Sec. 10. For those persons listed in the Annex to this order or determined to be subject to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

3.e.7

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Sec. 11.

(a) This order is effective at 12:01 a.m. eastern daylight time on September 24, 2001.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE W. BUSH
THE WHITE HOUSE,
September 23, 2001

ANNEX

Al Qaida/Islamic Army

Abu Sayyaf Group

Armed Islamic Group (GIA)

Harakat ul-Mujahidin (HUM)

Al-Jihad (Egyptian Islamic Jihad)

Islamic Movement of Uzbekistan (IMU)

Asbat al-Ansar

Salafist Group for Call and Combat (GSPC)

Libyan Islamic Fighting Group

Al-Itihaad al-Islamiya (AIAI)

Islamic Army of Aden

Usama bin Laden

Muhammad Atif (aka, Subhi Abu Sitta, Abu Hafs Al Masri)

Sayf al-Adl

Shaykh Sai'id (aka, Mustafa Muhammad Ahmad)

Abu Hafs the Mauritanian (aka, Mahfouz Ould al-Walid, Khalid Al-Shanqiti)

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Ibn Al-Shaykh al-Libi

Abu Zubaydah (aka, Zayn al-Abidin Muhammad Husayn, Tariq)

Abd al-Hadi al-Iraqi (aka, Abu Abdallah)

Ayman al-Zawahiri

Thirwat Salah Shihata

Tariq Anwar al-Sayyid Ahmad (aka, Fathi, Amr al-Fatih)

Muhammad Salah (aka, Nasr Fahmi Nasr Hasanayn)

Makhtab Al-Khidamat/Al Kifah

Wafa Humanitarian Organization

Al Rashid Trust

Mamoun Darkazanli Import-Export Company

3.a.7

Personal Representative Review of the Record of Proceedings

I acknowledge that on 7 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #226.

 I have no comments.

My comments are attached.


Name

7 DEC 04
Date


Signature